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# P R O C E E D I N G S

of the

SELECT COMMITTEE APPOINTED BY THE LEGISLATURE  
OF THE PROVINCE OF ONTARIO, TO ENQUIRE INTO  
AND REVIEW THE CEMETERY ACT AND REGULATIONS  
MADE THEREUNDER.



Mr. J. N. Allan, Chairman, Presiding.

Mr. John Scott, Secretary.



## VOLUME IX

Thursday, November 5, 1953.

Toronto, Ontario.

(Mrs) J. A. Wilde,  
Official Reporter,  
Parliament Buildings,  
Toronto, Ontario.



METROPOLITAN  
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Municipal Reference

Toronto, Ontario,  
Thursday, November 5th, 1953,  
10:00 o'clock, a.m.

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The further proceedings of this Committee  
reconvened pursuant to adjournment.

PRESENT:

Mr. J. N. Allan, Chairman,  
Presiding.

Messrs. Gordon,

Hanna,

Thomas (Ontario),

Sandercock,

Allen (Middlesex South),

Root,

Whitney,

Hall.

Mr. John Scott, Secretary.

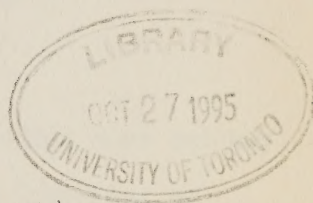
Mr. Walker, Counsel for the Committee.

APPEARANCES:

Doctor A. E. Berry

Mr. Burns, Advisor, Department of Health.

Mr. A. E. K. Bunnell, Department of Planning  
and Development.



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Mr. A. L. S. Nash, Department of Planning  
and Development.

Mr. R. B. Whitehead, Q.C. Superintendent of  
Insurance, Department  
of Insurance.

Mr. Errol T. Baycroft, Executive Secretary,  
Ontario Funeral Service  
Association.

Mr. S. B. Douglas, Solicitor for Mr.  
Baycroft.

Mr. Crawford, Representing Lons  
Stoneworth Ltd., Winnipeg  
and Belleville.

Mr. Lons Of Lons, Stoneworth Ltd.

Mr. A. E. Parkinson, Representing Forest Hill  
Village.

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THE CHAIRMAN: Gentlemen, times goes quickly  
so could we begin? We are continuing listening to  
experiences of those who are cemetery operators,  
those who are interested in the operation of cemeteries  
from the viewpoint of citizens, and those who may be  
interested in cemeteries from the effect it has on  
the community as a whole.

One of those would be Mr. Bunnell, who has  
just come from the Department of Planning and Develop-  
ment, and we hope to ascertain from him, the feelings  
of his Department as far as the establishment of new  
cemeteries is concerned, and where they should be  
established.



We have invited Mr. Bunnell to come and give us his views this morning. He is here and, I think, prepared to do that.

MR. A. E. K. BUNNELL,

Department of Planning and Development, appearing before the Committee, but not being sworn, deposes and says:

THE CHAIRMAN: Would you like to speak first and if we have any questions, we will ask them later.

THE DEPONENT: Mr. Chairman, under the Planning Act, the hon. Minister of Planning and Development is charged with the responsibility of approving of all plans of subdivisions.

The province of Ontario's plans of subdivision, in the main, are made necessary by the conversion of land from rural to urban use. Cemeteries are mostly of urban use. In other words, we have many more people who are living in urban communities. A greater and greater percentage of our population is living in urban communities. We jam them in tight in a lot while they are living, but we certainly jam them in tighter in a lot for dying.

Furthermore, not the hon. Minister, but the Department, by an arrangement with the Department of Municipal Affairs, is charged with the responsibility



of assisting municipalities in sorting out their land use problems.

Under Section 390 of the Municipal Act, a municipality may define the use to which land within the municipality is put, and the location of buildings and other structures on that land.

While such by-laws, to become effective, require the approval of the Ontario Municipal Board, the municipalities look to us in the first place for guidance prior to taking their by-laws to the Board, and on those occasions where they have not so done, the Board has referred them to our Department.

Cemeteries are users of land. Up to the present moment, the matter of locating cemeteries has been one which has been looked at more from the standpoint of health than from the standpoint of the position of the cemetery within the community. I am very happy to say that since the establishment of the Department and the responsibilities which have been given to the hon. Minister in respect to subdivisions and uses of land, Doctor Berry, who deals with the question of approval or disapproval of cemeteries under the Health Act, has worked in very close harmony with us.

Personally, I do not like restraints for



restraints' sake, and people now are befuddled, I think, by all the regulations to which they are subjected, and some of which are very difficult to ascertain. I leave it with the Committee as to whether or not the approval of the location of cemeteries should be <sup>necessary</sup> so far as legislation is concerned, whether or not there should be any change, and whether any further restrictions are required from the legislative standpoint. I leave that with the Committee.

There is another aspect of the matter. There have been many, many cemeteries in the past laid out with no proper definition of their boundaries. In addition, the actual plots have been laid out without sufficient reference so that they can be re-defined on the ground, with the result that while people have purchased plots, burials have run over onto other plots.

The burials in many instances, have been made in the paths which were provided between the plots. I realize the family cemetery is not as prevalent in this day as it was in former days, but nevertheless, cemeteries in smaller places are continuing to be laid out without any clear definition of what their boundaries are. It has occurred to us --

The first part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself. The second part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself. The third part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself. The fourth part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself. The fifth part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself. The sixth part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself. The seventh part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself. The eighth part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself. The ninth part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself. The tenth part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language itself.

and we have discussed it with Doctor Berry from time to time -- that no land should be used for cemetery purposes except a planned subdivision where the boundaries are defined by a plan of subdivision rather than by metes and bounds.

Certainly, there will be no hardship there insofar as the cemeteries which have an acreage of twenty-five acres up.

For the country cemeteries, that might, to some extent, be a hardship, but I do not think it would be any real practical hardship.

If the boundaries are clearly defined, then it is much more likely that the plots will be clearly defined. If the boundaries are not clearly defined, it is very unlikely that the plots will ever be clearly defined, or will be re-traceable on the ground.

I would like you to hear from Mr. Nash in just a moment. We would urge that no land be laid out for cemetery purposes except by plan of subdivision, so that those boundaries will be clearly defined, and so that we, who are charged with the responsibility of dealing with this problem of conversion from rural to urban use, will have some knowledge before the cemetery becomes a fact.

I would like to speak, if I may, a personal word. In my view, there should be no cemetery created anywhere in the province of Ontario except by



a non-profit organization. I have had some personal experience. My son lives near Weston. He was at home with his wife one evening, and a man came to his door,/<sup>who</sup>persuaded him to buy a plot in a cemetery to be formed. I think that is wrong in the first instance. I do not think anybody should be sold a plot in a cemetery, except when the cemetery or the plot has first been formed.

My son is hardly mature, he is a man about 30 years of age, and they worked on his emotions and the emotions of his wife. They persuaded him that the time had come when he should buy a plot in this cemetery. He did, and the man asked him if he knew of any other people who might be interested. He told them that maybe his Dad would be, because he knew that while the Bunnells had a plot in Brantford, that possibly because of the fact I had lived in this area for so long, and perhaps my attachments would be to my children rather than to my father and mother, we were probably seeking to be buried in the Toronto area.

So I said to "Ted", "Thanks for telling me what you have done, but I have no interest in being sold a plot in a cemetery by a door-bell ringing salesman". I said, "You stop payment on your cheque", which he did. That is the last he has heard.



But it was not the last I heard of it.

A man came along to my door one night about half-past nine and that is certainly a time of night when I do not want to be disturbed by people of that description. He had another man with him, who stood about twelve feet away, so I assumed he was a salesman-in-training.

He told me about having called on my son and my son said I might be interested. I said it was very nice of my son to suggest that he should call, but really I was not interested. We talked a little more and I said, "I have no interest". I said, "I do not like your business and want nothing to do with it, and let us terminate the interview and say 'good-night'." And that was that.

So I just want to say personally I think this business of speculative cemeteries is a very bad business, and something to which the public should not be exposed. Thank you.

THE CHAIRMAN: I would like to ask you a couple of questions, but perhaps I should wait until Mr. Nash has spoken.

MR. A. L. S. NASH,

Department of Planning and Development, appearing before the Committee, but not being sworn, deposes and says:



THE DEPONENT: Mr. Chairman and gentlemen, we have only to supplement what Mr. Bunnell has told you, and perhaps we can speak first of the fact of the difficulty of locating cemetery plots, because apart from our experience with the Department, I am an Ontario land surveyor. In my practice as an Ontario land surveyor, I have from time to time been asked to lay out plots in a cemetery, and in most cases the reason the Ontario land surveyor has been called in, is because the original laying-out of the lots has been done in an amateur fashion, and the whole arrangement has been completely muddled up.

In attempting to straighten/<sup>it</sup>out in most cases, I have found the difficulty is that the original boundaries of the parcel had not been either properly defined, or the over-all dimensions of the plot set out as a cemetery, or a cemetery extension, have not been definitely defined. Not only are the dimensions not known, but the boundaries are not fixed on the ground. Therefore, any plan for creating plots cannot ever be properly laid down on the ground within the land which is available.

BY THE CHAIRMAN:

Q            Could I ask you if you found that/<sup>in</sup>the larger cemeteries or does that mostly have to do with quite



small cemeteries?

A           Primarily, with the small ones, although I can think of one instance where it was a fairly large one. But it is primarily with the smaller ones, and those which have been established over a period of time, and then have had recent additions made to them.

          In the case of the older cemeteries, neither had the additions been properly surveyed originally nor had proper steps been taken to insure that the over-all dimensions were known, or that the boundaries were marked.

          Mr. Bunnell suggested perhaps the desirability of registering the whole of the exterior boundaries of the new cemetery, or any addition to that, as a registered plan of subdivision.

          The advantage of that, I think, is primarily that it insures that the boundaries have been properly determined on the ground, not only determined as to the dimensions, but monumented so that they may be found by the use of permanent monuments. Secondly, it is on record in the registry office and it can be described as a block, or in whatever manner it is designated on the plan of subdivision.

          In regard to the general planning aspect of cemeteries, they have in many cases in centres such



as Toronto and elsewhere, grown continuously until they assume tremendous areas, appropriated for that purpose, such as Mount Pleasant Cemetery, Prospect Cemetery, and each of you will know in your own centres, the type of thing which has happened.

In the case of Mount Pleasant Cemetery here, I think it extends for a mile and a quarter east from Yonge Street. At one time, there was no opening through that. It became necessary to have some opening as traffic requirements increased, and it was necessary to open Mount Pleasant Street through it. I know from those who have had to do with it -- and perhaps you have had evidence of that directly -- the difficulty which was encountered.

A cemetery is one of the most important things to deal with in designing any system of streets in a community, approving the proper design and opening of streets where they should be.

From the standpoint of the adjacent uses, a cemetery is not the sort of thing most people want to have next door, and yet it is of essential use.

Therefore a proper location must be found for it where it will fit into the general over-all pattern of community elements and services, and that is the vital thing, the general concern, which we, in community



planning, have with regard to cemeteries.

They are an especially peculiar type of land use, which is not just the ordinary commercial aspect, but <sup>which</sup> / have -- I do not know how to describe it -- a spiritual aspect.

People do not want to move graves. They do not want to change them, and they hold a cemetery in a different sort of respect than they do any commercial use. For that reason, it is much more difficult to deal with them by way of change, and we must have change as our urban communities develop.

They are a most inflexible element once they are established, and if they are placed and properly located, they serve that purpose. Not only must they be properly located in regard to the other elements of community, but they must be on land which is suited for that purpose, but perhaps that is not ours to speak of.

As I said, perhaps it is not our part of the matter to speak of, but it is essential the land should be suited to that use. The job of community planning primarily is a matter of allocating the various portions of the community, to the uses to which they are best adapted, having regard to their relative location to create a good community.



For that reason, we feel that the establishment of a new cemetery or the extension of an old cemetery is a matter <sup>in</sup> which the planning authorities in any community should have some part. How that is obtained, of course, is another matter.

Mr. Bunnell has referred to the fact that plans of subdivision are referred to our Department and the Community Planning Branch for review. That method has worked satisfactorily in this, that the hon. Minister, in dealing with plans of subdivisions, is not determining where they should go, but our Department is a clearing house in which the comments and interests of all the various elements of the community and of the Provincial service can be brought together. There they are combined and coordinated with a view to determining what is the best in regard to the over-all need.

A plan of subdivision comes to the office, it is relayed to the Department of Health, the Department of Highways, the Department of Lands and Forests, if it is Crown property, the Department of Education as regards the location of school sites.

A cemetery is not unlike a new subdivision with regard to that, therefore that type of treatment would seem to be one which would permit



consideration of all of the various aspects of it, particularly those having to do with community plans.

THE CHAIRMAN: I might say to you, Mr. Nash, that this Committee realizes, as they listen to the opinions of responsible persons, more and more that a cemetery is a very permanent thing. I think when this Committee endeavours to write their report, one of the things they will have in mind will be the permanence and the necessity of suitable financing which will insure that permanence being continued in a satisfactory manner.

What I do not know, and I doubt if the members of the Committee do, is the location of a cemetery is quite a problem, which as yet we have not solved. We have come to realize that the importance of that, and we realize too that it must be done in establishing future cemeteries. As regards those already established, you would be locking the door after the horse was stolen. It must be done well in advance.

I thought the Committee might be anxious to know where the location of a cemetery might be in a township and it might appear it would be some period before it would become an urban section, would your Department be willing to undertake the consideration



of that, even if it were in a township which had no Planning Board?

THE DEPONENT: That is correct.

THE CHAIRMAN: If this Committee should recommend, and legislation was finally enacted, which required every cemetery to clear their plan with the Department of Planning and Development, that would be in order. Is that right?

THE DEPONENT: Yes.

MR. BUNNELL: I think, Mr. Chairman, that cemeteries, as with any other contemplated use, should be looked at from the standpoint of need, and land should not be set aside for any use prematurely.

We know that, and we realize of course it is very difficult to determine what is premature in any given circumstances. But obviously the location of a cemetery, as you have suggested, is a matter of public interest, and accordingly, the representatives of the public should have every opportunity of considering the pros and cons before a cemetery becomes a fact.

THE CHAIRMAN: Thank you very much, Mr. Bunnell. I think that is the information which the Committee were anxious to get.

You mentioned, of course, restraints are



never popular, and you are not advocating restraints, but when you find, as we have found in Wellington County this week, 95 cemeteries in Wellington County, many of which are abandoned, and many of which are neglected, it would seem to me,-and I am not speaking for the Committee in this respect, - -- that the establishment of a cemetery is an important fact. Although there may be some "red tape" in connection with the establishment of that cemetery, I think it should be the hope that the establishment is properly done. I do not think that even a few restraints or a small inconvenience, should influence the judgment of those who exercise that judgment in requiring those particular approvals.

MR. BUNNELL: . Apropos -- and I must not take my feet again, unless I am requested -- was it not a fact in the early days that families were compelled to establish their own plots for lack of any general interest, and that is possibly the reason why there are so many of these small neglected cemeteries?

THE CHAIRMAN: I think that is partly the reason.

MR. BUNNELL: That is why there are so many small family cemeteries in the country.

THE CHAIRMAN: There is also a great



inclination on the part of religious bodies to be buried together, and some religious bodies which now are not even known.

MR. BUNNELL: I think, except for one communion, that there are no longer cemeteries being established by religious groups, except for the one institution.

THE CHAIRMAN: I think that is perhaps generally correct.

MR. BUNNELL: And it does seem to me the time has come, and as years go along, our concept of what is public responsibility changes, and also in general terms it has broadened through the years, and I think for the better.

I think we should look on this matter of the establishment of cemeteries and the accommodation which they provide as a public responsibility.

THE CHAIRMAN: Thank you very much.

Do any members of the Committee wish to ask either Mr. Bunnell or Mr. Nash any questions?

We are very grateful to you gentlemen and we shall consider what you have said when we come to write our report.

Before I call upon Mr. Whitehead from the Department of Insurance, I would like to say you may



wonder how the Department of Insurance might be interested in cemeteries. However, Mr. Whitehead, our thoughts have been, as we have looked over the situation, in a great many cemeteries, there is a desirability of permanence and a desirability of having funds available, the interest of which will continue to keep up these cemeteries satisfactorily. As the Act is now, if the cemetery is not kept up, it becomes a charge on the municipality. The municipalities are not, in many instances, particularly desirous of undertaking that responsibility.

If this Committee should decide to endeavour to see that funds are collected, the interest of which will be available, perhaps not in a generous way right now then the problem of seeing that those funds are properly handled, confronts the Committee. Knowing that you have had a great deal of experience in such matters, we thought you might be helpful to this Committee, and that is why we have asked you to come.

MR. R. B. WHITEHEAD, Q.C.,

Department of Insurance, appearing before the Committee, but not being sworn, deposes and says:

THE DEPONENT: On the one point to which you have referred, I take it what you had in mind was



the audit which would be required of the perpetual care fund.

BY THE CHAIRMAN:

Q            Whatever is required to assure that this fund will be properly preserved and invested.

A            There is no question about the fact, Mr. Chairman, that the Department of Insurance has in past years carried out a somewhat similar function with reference to insurance companies, putting auditors in to see that the necessary reserves are maintained and the requirements of the Insurance Act carried out.

Here looms up a somewhat parallel situation where there will be a statutory obligation, I assume, on the part of every cemetery administration to set aside a certain proportion of the sale of its plots to cover what is known as the perpetual care fund, to look after those plots in perpetuity. It is quite possible that the Insurance Department, through its own auditors and staff, could make the necessary investigation and audit to see that that was done.

However, what I was wondering about when you referred to this was, what is to be done where the Insurance Department find the Act is not being complied with? Have you in mind then that a report would be made by the Department of Insurance to the



licensing authority, or whatever corresponds to the licensing authority that enables that cemetery to carry on, and that they then would take the necessary disciplinary action, or just how is this to be administered? We can make an audit on a report, but what is the next step, in order to see that the shortcomings are enforced?

Q I guess you see some of the difficulties already. Of course, one of the difficulties which does present itself to a cemetery which is different to any other concern is there is no one who wants to seize it.

A Quite true.

Q I know we will make a note of what you have said, and when these recommendations are made, Mr. Walker is supposed to be able to look after that.

A Perhaps my remarks a moment ago might have been more directly attributed to the cemeteries for profit where, if it were found that the requirements of the Act were not being carried out, there might be then some compulsion on that company to carry them out. An order discontinuing selling of plots would be in order, that is, on the assumption this Committee would recognize cemeteries other than non-profit cemeteries.



MR. WALKER: Mr. Whitehead, if I might interject just for a moment; as you probably understand, some of the cemetery organizations have very substantial accumulation of funds, and as the years go by, there will be additions to these funds.

When they talk of perpetual care, the cemetery people and the people who purchase plots, contemplate something which is going to go on for a period of one hundred or more years, and it does seem that there is a situation that is almost parallel, perhaps, to an insurance policy.

In other words, you pay so much today for perpetual care on a certain plot, but you are not going to be around to see that that plot is taken care of, and you pay for a promise on the part of the cemetery company.

Whether or not that is parallel to the promise of an insurer to pay your estate at a certain date, a certain sum of money, and in the meantime you pay that insurance, -whether or not that is a parallel situation, I do not know, but it does seem to me there is something parallel there.

It may be on the basis of your experience in insurance, you may have some suggestion.

THE DEPONENT: Of course, there is an element



of compulsion that can be used in the insurance field, where, if an insurer is not complying with the requirements of the Act, we can say, "You must discontinue doing business or put up additional capital before a renewal of your license will be issued."

I can see that would not apply to a cemetery, but on the other hand, there is, or there should be, some element which will force the cemetery administration to come into line, and do as the statute requires them to do. I was wondering how that could be worked out.

BY THE CHAIRMAN:

Q We have begun to realize some of the difficulties that beset the way of any governing body which undertakes the responsibility of seeing it is done properly.

It is quite a responsibility. It may be when this legislation is written, it may have to appear hard because the thought came to us in that regard that even if you audit these accounts and you see this money is there, there comes the question of the spending of the money, whether or not there must be some way of having an oversight over the spending of that interest from the perpetual care fund. It could be that some person owned a cemetery and decided the



income from the perpetual care fund was \$10,000. a year, that their salaries should be \$10,000. a year, and the graves might be neglected.

Therefore, we realize<sup>we</sup>/have a great many hurdles to meet. What we are particularly anxious about so far as you are concerned, I think, is to know that if it was decided by those who write the laws, that your Department should be responsible for seeing that the money was invested properly, and that furthermore, the share which should be invested was invested, and put aside --

A I think our Department could clearly do that, Mr. Chairman, although it is manifestly impossible for it to go any further, and to require the Department to have supervision over the extent to which that particular fund is being invested or being used for the purpose for which it is accumulated.

Q But as Mr. Walker has mentioned, Mr. Whitehead, as this continues, this sum could assume tremendous proportions throughout the province, of many millions of dollars. It requires a Department that is qualified and has the proper staff to oversee it, because once you assume the oversight of something, it had better be an oversight, had it not?

A There was one phase of this to which I have



not referred, and that was, an investigation was made some years ago. It was not really an investigation, it was more of an enquiry following a statement made in the Legislature to the effect, as I recall it, that doctors, as such, had an interest in cemeteries, which should not exist.

As a result of that, the then Attorney-General, Mr. Conant, had Doctor Ken Gray of the Department of Health and myself directed to make an investigation to see the extent of which it was true.

We put out a questionnaire and sent it to about 60 cemeteries, as I recall it, throughout the province. We found first of all, there was no foundation whatever in the statement which had been made that gave rise to the appointment of ourselves as a commission.

However, among other things which we asked in that questionnaire was the state and the amount of the perpetual care fund of the different cemeteries. Although it was incidental to our enquiry, I know that we were rather impressed, at the time with the amounts which had been accumulated in each particular case for each cemetery. We also had the impression that they were consistent in setting up a certain amount in each case, of the purchase of the



plots for perpetual care.

That is of course only incidental to our enquiry, but I do not suppose it is really of much value to this Committee.

Q I think it impresses something which we are beginning to realize more clearly as we go along. We visited a cemetery yesterday whose perpetual care fund was a quarter of a million dollars, and they told us it should be over a million dollars. That was a comparatively small cemetery. It will give you an idea of the extent to which these funds will grow as time goes on, and as they continue to be increased.

A I do want to emphasize the quandary under which the Department of Insurance would find itself unless it was clearly specified in the law what is to be done where it finds that the requirements of the Act with regard to perpetual care have not been complied with.

Q I have asked Mr. Walker to make a special note of that statement.

A And you can rest assured that the Department of Insurance is not asking for any further responsibilities in that regard.

Q I think it is understood you did not come here asking for it.



BY MR. THOMAS (Ontario):

Q           Mr. Chairman, I do not know whether Mr. Whitehead would care to answer this question. He might, but it was mentioned here this morning that some of the sales promotion methods are not quite ethical. Would you care to comment on that? Would you agree that salesmen of the profit cemeteries should be licensed?

A           Do you mean under the Securities Act? I was Securities Commissioner, as many of you know, for seven or eight years, ending in 1944.

Throughout that period, and even today, I think there is a prohibition in the Securities Act against selling from house to house, subject to certain modifications.

As a personal matter, I do feel if there is any situation in which such a prohibition is appropriate, it should be in the sale of cemetery lots from house to house. I know that even in the securities field, that particular prohibition has been criticised, and yet as I understand it, it is still there and is enforced. I think it ought to be enforced equally so in the sale of cemetery plots.

THE CHAIRMAN: Thank you very much, Mr. Whitehead.

Do any members of the Committee wish to



ask Mr. Whitehead any further questions?

MR. ERROL T. BAYCROFT,

appearing before the Committee, but not being sworn,  
deposes and says:

THE DEPONENT: I have a brief prepared  
by the Association.

BY THE CHAIRMAN:

Q You might tell us what the Ontario Funeral  
Service Association is, and who it represents.

A It is in the brief.

"The Association appreciates the opportunity of  
submitting to the Select Committee of the  
Legislative Assembly appointed to inquire into  
the Cemeteries Act and the regulations made  
thereunder, its views in the matter under review.  
The Ontario Funeral Service Association.

The Ontario Funeral Service Association,  
representing the Funeral Directors in Ontario,  
is a body of Funeral Directors incorporated under  
the laws of the Province of Ontario for the mutual  
protection of the Public and those engaged in the  
profession of Funeral Directors. Paid-up member-  
ship in the Association at this date consists of  
three hundred and Twenty-one Directors located  
in all parts of Ontario.



It is understood that, at the first Meeting of the Select Committee, the Minister of Health proposed that the Committee answer the following questions:-

1. Does Ontario want cemeteries for gain?
2. Should they be exempt from taxation?
3. What regulations should be set out to cover perpetual care?
4. What should be done with abandoned cemeteries?

In the main, the discussions of this Association have been directed to the four questions asked by the Minister. There are, however, one or two general observations which it is desired to add.

We have considered seriously the desirability of Funeral Directors expressing themselves in the matters under inquiry. While Funeral Directors as such are not usually involved in cemetery operations, cemetery facilities are used extensively by them in connection with the services which they render to the public. Accordingly, Funeral Directors have a direct interest in the matters under inquiry and it is the feeling of this Association that both in the general public interest and on their own behalf, Funeral Directors should make their views known to the Select Committee.



"It is assumed ~~that~~ the inquiry of the Select Committee is to be broad and encompass all cemetery operations within the Province of Ontario. This being the case, a distinction should be drawn between the circumstances and problems of cemeteries in the more settled areas and those cemeteries in the remote parts of the province. The views of the Ontario Funeral Service Association concern mainly the cemeteries in the more settled areas and no attempt is made to take ~~into~~ into account the special conditions affecting cemeteries in the sparsely settled districts.

Cemeteries for Gain

"It is the opinion of the Funeral Service Association that cemeteries for gain should be permitted in the Province of Ontario. If cemeteries were not permitted on this basis, it is feared that cemetery facilities might be unduly limited and possibly inadequate. Cemeteries should be developed and operated on a business-like basis but care should be exercised, through proper regulation and control, to ensure that the development and operation are carried out in keeping with the purpose served by cemeteries.



"There is a possibility that, if cemeteries are operated for gain, they can become highly competitive with accommodation being supplied in local cemeteries far beyond the foreseeable requirements of a community. Accordingly, it is believed that, before permission is granted for a cemetery to be established, there should be proof of the need for additional cemetery accommodation in the locality and the public should be protected by adequate regulations governing layout and operation.

Exemption from Taxation

"If a cemetery is operated for gain, the owners and/or operators should be subject to the same taxation as any other commercial undertaking, whether such taxation is Federal, Provincial, or Municipal. This would involve the payment of income, property and business taxes. It is recognized, however, that a special basis of municipal assessment is involved as cemeteries do not require municipal services to the same extent as other property and taxes should not be levied beyond the cost of providing essential municipal services to such cemeteries. Insofar as the cemeteries not operated for gain are



concerned, it is our opinion that they should continue to be exempt from taxation in the same manner as at present under the provisions of The Assessment Act.

REGULATIONS COVERING PERPETUAL CARE

"It is the opinion of the Funeral Service Association that perpetual care should be the responsibility of the cemetery operator and not of the purchaser or owner of individual lots. It is considered desirable that basic standards of upkeep be established and such standards should be specified in the deed covering each cemetery lot. Without going into detail, perpetual care should provide for maintenance of roads for access throughout the cemetery, the care of turf, the levelling of sunken graves as required, etc.

It is difficult to suggest a percentage of the purchase price which should be set aside for perpetual care. An amount which would be sufficient to provide adequately for perpetual care in one cemetery would be totally inadequate for another, and, in view of this consideration, it is believed that the percentages set should err on the high side.

In view of the different circumstances which



apply to each cemetery, it is suggested that the percentage of the sales price to be set aside for perpetual care should be determined on an actuarial basis. Provision should be made also for the percentage to be reviewed periodically, say every 5 or 10 years, to determine its adequacy. If unnecessary surpluses are accruing, the percentage could be lowered but, if the fund is not sufficient, the percentage could be increased.

It is the opinion of the Funeral Service Association that all funds designated for perpetual care be deposited with a trust company under a special agreement approved by the appropriate Provincial Department which would specify the conditions under which withdrawals and that the interest only from investment of the fund should be available for perpetual care. In effect, the amount established for perpetual care from each sale is additional to the purchase price of the lot and should not be considered as the property of the cemetery operator. The cemetery operator is in the position of a trustee who undertakes to provide perpetual care on behalf of the owner of the cemetery lot and the operator should not have access to the



contribution made to the perpetual care fund by the purchaser. The interest only should be available to the operator and proper inspection should be established to ensure that the standard of upkeep is maintained by the operator.

#### Abandoned Cemeteries

"The disposal of abandoned cemeteries presents many problems. Generally speaking, cemeteries are intended to serve a local area and the problem of disposing of abandoned cemeteries is one which should be dealt with by the municipal administration governing the area within which the cemetery is located. If public sentiment is sufficiently strong, the local municipality should be required to assume responsibility for the upkeep.

#### Selling Methods

"The Funeral Service Association is reluctant to take a strong position on the method of selling cemetery plots, tombs and other cemetery facilities and services. The experience of our members, however, establishes that purchases made as a result of undue pressure and influence usually result in dissatisfaction. In such instances, there is a possibility on the part of the



salesman to misrepresent facts and under no circumstances should this be permitted. The very nature of the commodity involved and the use to be made of it suggest the desirability of eliminating commercialism as much as possible in the sale of cemetery lots and facilities to the end that sentiment and dignity may be preserved on the highest plane.

"Recently there has been a marked increase in the sale of cemetery lots in advance of need. While there is no objection to such sales provided proper dignity and respect are maintained, it should be remembered that death often occurs unexpectedly. Accordingly, where cemetery lots are sold in advance of need, such lots should be available for immediate use, with the area within which the lot is located being properly laid out, accessible, and ready immediately for proper care and upkeep.

"While no objection is raised to the sale of cemetery lots in advance of need, there is strong exception taken to the sale of cemetery lots as an investment on the grounds that such sales encourage speculation which detracts from the dignity associated with the use of cemeteries.



Not only do sales on this basis increase the possibility of misrepresentation of future value, but they also create an undesirable situation in future years when available lots in a cemetery are limited.

"There are instances where the owner of a cemetery lot wishes to sell it because of establishment of residence in some other community or for other legitimate reasons and it is the feeling of the Funeral Service Association that the cemetery operator only should be permitted to purchase the lot from the owner and resell it. In such instances of this type, the cemetery operator should act in the capacity of an agent through whom legal transfer is made and the owner of the lot should receive the resale price less any reasonable charge by the cemetery operator for the expenses involved in the resale and transfer."

THE CHAIRMAN: Thank you very much. There is one little statement that you make here to which you must have given a great deal of consideration. On page 2, you say:

"If a cemetery is operated for gain, the owners and/or operators should be subject to the same



taxation as any other commercial undertaking"  
Then you continue on. Did you give any thought as to where that money was to come from, and how you were going to get it?

THE DEPONENT: I think probably I will let Mr. Douglas answer any questions which you might ask.

MR. S. B. DOUGLAS,

appearing before the Committee, but not being sworn, deposes and says:

THE DEPONENT: I am solicitor for the Funeral Association, and I doubt if I can answer that question myself. I do not think I can.

BY THE CHAIRMAN:

Q On the face of it, it looks very simple.

A I appreciate that.

Q But once a cemetery has been sold out, and the lots are all sold in a cemetery, there can not possibly be any other revenue in that cemetery to pay taxes.

MR. BAYCROFT: Perhaps I can elaborate a bit. When a cemetery sells lots, for instance new cemeteries being organized, they will sell probably a third of their cemetery, and there comes a time when the graves must be opened.

At the moment, as far as I know, there are



very few regulations governing the charges that might be made for the opening of a grave. In the opening price on that grave, there is, I know, a charge made toward the maintenance of the cemetery over an above the perpetual care fund.

I think probably part of the charges for the opening of the graves could be available for the payment of taxes.

BY THE CHAIRMAN:

Q After the graves are all sold, where will you get the money from?

MR. BAYCROFT: We have a perpetual care fund.

THE CHAIRMAN: If you take the money that a person has paid to see that the grave is kept properly, there would be grief. I am not expressing an opinion on the taxation of commercial cemeteries, except to say this, when you consider it, I think you will find that you will have to decide when the lot is sold in the first place, whether that cemetery is going to pay taxes or not. If it is, there must be a fund set up, the interest on which will pay taxes.

It was in regard to taxes that I wanted to ask either Mr. Nash or Mr. Bunnell a question.

We have had the matter of taxation mentioned several times, but there is one particular thought which we would like to have your opinion on, and that



is whether every cemetery which is established from now on, should pay taxes.

I think we are going to recognize the fact that if you are going to tax a cemetery, it must be known at the time of the establishment of the cemetery so that preparations are made to provide money to pay taxes. It has been pointed out to us that a cemetery in a community can be very bad if they did not have any money to meet the charges for local improvements. The persons who live on the opposite side of the street to the cemetery would either suffer or the cost of any local improvements would necessarily have to be borne by the municipality.

As a result of that, those residents on the other side of the street would not get the improvements they would otherwise.

Have you found that to be the case? From the very little bit of thought we have given it, it does not look to be a hardship on a cemetery to provide a fund -- and this just refers to cemeteries which are being established, new cemeteries. It would be a very easy matter to provide a fund, the interest on which would take care of local improvements.

MR. ALLEN (Middlesex South): The sale of the plots of say \$50. or \$100. is a very small part



of an interment. The monument costs \$500. or \$600., the funeral costs the same, and why not add on a little towards a fund for that purpose. What do you think of that?

MR. BAYCROFT: I do not think I had better answer that.

I do suggest this<sup>and</sup> what I have in mind more or less is: municipal tax as a rule in a cemetery is for water, and when that area becomes established, you would have sidewalks, etc., but I had in mind the profits made from a cemetery operated for gain.

What we had in mind more than anything else was the business tax or income tax. If the cemetery is filled, and the cemetery is closed, there would be no profit, and they would not be subject to tax. However, I was not referring particularly to municipal taxes.

THE CHAIRMAN: It might interest you to know in the State of New York, all cemeteries are non-profit, and yet the statement is made families have made millions of dollars out of cemeteries. Yet the cemeteries are non-profit, so that you might have difficulty in establishing "profit".

MR. BUNNELL: Mr. Chairman, the question you have asked is one which might perhaps be better directed



to an officer of the Department of Municipal Affairs, because the question of taxation is a matter of administration.

THE CHAIRMAN: I realize that, but I wondered if in your planning you had encountered any difficulty.

MR. BUNNELL: I might say I do not think we have because we have not had much to do with it, by reason of the fact that plans of subdivision are not required for defining boundaries of a cemetery, and we have not had much to do with that from a planning standpoint.

However, it does occur to me that there would be many situations where a cemetery might be planned so that the amount of street frontage could be reduced to a minimum. In other words, is it essential that a plot of land, - 100 acres in extent, be bounded on all four sides by a street? I do not think it is.

THE CHAIRMAN: I might say to you, Mr. Bunnell, that we had a presentation in Ottawa which suggested there be no streets. Then the question arose, what would be the feeling of the people owning backyards facing the cemetery.

MR. BUNNELL: There certainly must be an entrance off the street.

THE CHAIRMAN: Their suggestion was that the houses go on the street, and the cemetery be in the centre.



MR. BUNNELL: There is a situation of that kind in parts of Mount Pleasant Cemetery in Toronto. At Mount Pleasant Cemetery, there are houses, which rears of the houses about the boundaries of Mount Pleasant Cemetery in the Moore Park area.

Apparently there has been no unwillingness of people to reside in that area, and the rears of the houses are so screened, that in most seasons of the year you would hardly know there was a cemetery there.

If a cemetery is designed with a minimum of street frontage, it becomes a much more quiet and pleasant place in which to wander.

For myself, I live quite close to Mount Pleasant Cemetery, and I find it really the only pleasant place that one could take a walk in that vicinity. It is free from automobile fumes. It is quiet, and I think something could be done from the standpoint of design that would reduce that problem to a minimum.

If it is recognized, as I hope it will be, that cemeteries are a public responsibility, that we all will use the cemeteries sooner or later, I think cemeteries then should be relieved of any taxation which was not of practical benefit.

THE CHAIRMAN: Some of the briefs which were presented to us pointed out that could be very well



fair and just if the cemeteries were in the municipalities which use them, but a great many cemeteries are without the municipalities who use them.

MR. BUNNELL: That is another problem again, this question of municipal relationships. But while I was sitting here, I said I would not get to my feet again unless you invited me to.

Listening to the discussion, I could not help but wonder if consideration might not well be given to the leasing of cemetery plots for a period, rather than to give a deed as it is now.

It seemed to me if that could be done, the lease could be for a term and when the term is defined, it would be the period during which the plot could be used.

At the end of that period, all rights would cease. If that were so, there would be an end to the period during which any given cemetery was used down through the years. We know that there have been changes in city structures, and in many cases, it has been by legislation, I guess. Cemeteries have disappeared, and the land has been put to other uses.

That seems to me to be a dreadful thing as long as families have any interest in the plots, but



if those plots were acquired on a lease which was to be terminated at a certain time, then our interest in the cemetery, would over the years, disappear.

BY MR. ALLEN (Middlesex South);

Q What length of time would you suggest?

MR. BUNNELL: You have asked me something to which I have not given any consideration. Sitting here, it just occurred to me, I would suggest if I were to buy a plot, and there was no over-selling of plots, so that there was always what was deemed to be, an adequate reservoir for the community, if I had a lease for 100 or 150 years, at the outside, that device would commence to solve this problem of perpetual care. However, I do not think we have ever analyzed the use of the word "perpetual care" as it is applied to a cemetery.

THE CHAIRMAN: Thank you, Mr. Bunnell.

It has been pointed out to us, when perpetual care was begun in a certain cemetery, wages were 15¢ an hour and now they are \$1.23. When you think of that, you realize the problem of perpetual care. I would like to ask you another question, Mr. Whitehead, if I could.

This question has to do with the trustee investments. In one of the presentations which was



made to us, the treasurer of a small cemetery felt that he would not even be satisfied with trustee investments. He mentioned Dominion of Canada and Province of Ontario bonds, and insisted all his funds be kept invested in that particular type of bond.

If a cemetery wished to do that, can arrangements be made with trust companies in that respect?

MR. WHITEHEAD: If the words of the Statute are that those funds should be invested in trustee funds, then they are bound by the terms of the Statute which excludes any investments in stocks.

You will recall a year ago there was a Bill brought before the House and on the second reading of that, it was brought down before one of the committees. The purport of the Bill was to extend to investment boards authority to include preferred and common stocks, but that Bill was withdrawn.

I suppose the same conservative attitude which prompted the dealing with that Bill would also apply to the dealing of this matter to which you have referred.

THE CHAIRMAN:

What I had in mind, if there was a regulation requiring all monies of all cemeteries to be invested in trustee funds, do you think that would be a good idea? This gentlemen, who was treasurer of the city,



as a matter of fact, was opposed to investing in any municipal bonds which are trustee bonds.

MR. WHITEHEAD: It seems to me, over the years, those restrictions have proven their worth as conservative investments.

THE CHAIRMAN: We will now adjourn for five minutes.

----Whereupon a short recess was had.

----Upon resuming.

THE CHAIRMAN: Mr. Crawford of Winnipeg is here, representing the Canadian Association of Memorial Craftsmen.

MR. CRAWFORD,

appearing before the Committee, but not being sworn, deposes and says:

THE DEPONENT: I am representing a firm known as the Lons Stoneworth Ltd., who have business in Winnipeg and Belleville, Ont.

BY THE CHAIRMAN:

Q You are representing who?

A Lons Stoneworth; it happens we are members of the Memorial Association of which you speak, as well as carrying on our own business.

May I, at the outset, express to you, my very



deep appreciation of the opportunity given to me and to my client to appear before you on this enquiry.

As I have stated, I unfortunately come from the West. I do not belong to Ontario, and for that reason, my appreciation is that much deeper.

But we are interested, as you are, in the question of cemeteries. We are not interested in the question of sale of lots or anything of that kind, We are only interested in one branch of the cemetery investigation, and that, in our opinion, is what you might call indirectly the proper maintenance of a cemetery, particularly dealing with tombstones, or as we call them, monuments.

There are several types of monuments, as I think you are well aware, the granite memorial or monument, the marble memorial, and also what is known as pre-cast stone.

Let me clear up any misapprehension about pre-cast stone. We are not dealing with a lime stone or sand stone. We deal with pre-cast stone made from marble and dolomite. Let me say right now that our material, marble chippings, and dolomite, come from Madoc and around Haliburton. Whether we manufacture in Ontario or whether we manufacture in Winnipeg, all these ingredients come from this province, so we have



a very definite <sup>and</sup> direct interest in the province of Ontario, in the question of our manufacturing.

My clients are manufacturers of granite memorials, marble memorials and pre-cast memorials, they do business in selling each of these articles, and for that reason, we are members of the Memorial Craftsmen's Organization.

We found there was some objection to pre-cast stones. Let me say this right now, in the early beginning, in order to reduce the cost of this type of memorial, people built cement memorials. History shows that cement memorials do not stand up, and in order to meet that difficulty, and in order to provide a cheaper form of memorial, my clients developed their particular form of a pre-cast stone.

A pre-cast stone by test, as I will show you in a moment, stood up, and stands up, to the same conditions of weather as granite or marble does.

Perhaps I might include an illustration of what I mean by that. In January of this year, the City Council in Winnipeg who operate what is known as the Brookside Cemetery, a municipally-owned cemetery, introduced an amendment to their cemetery by-law prohibiting the use of any memorial except granite or marble. They stopped it right away.



When that was done, we made representations to the City of Winnipeg, pointing out that was unfair for a number of reasons, and that we were prepared to show them why it was unfair.

The first question they asked us was "You say your stone is as durable as marble or granite?" And we said, "That is so".

"Will you submit your stone to a test to be made by an independent body?", and we said, "Yes, send it anywhere you like".

They took samples of our material and sent them to the University of Saskatchewan. Tests were made and the result of those tests is that today, they have amended their by-law and we are now permitted to erect in Brookside Cemetery, these pre-cast stones.

In January of this year, we were stopped, and when we showed them by test, of an independent body, that this stone was as durable and as lasting as granite or marble, they altered their by-law, and their by-law now reads that we are permitted to put up pre-cast stone in Brookside Cemetery.

They also said to us, "Will you give us a guarantee as to the lasting quality of that stone?", and we said "Yes, moreover, not only will we give you a guarantee, but ever since we have been in



business manufacturing this type of stone, we have always given a guarantee to every purchaser that if for any reason whatsoever, the stone is defective, we will replace that stone, and in addition, if the replacement is not satisfactory, we will give you back your money, and you can go and put another stone in". That guarantee is contained in every sale which we made of this particular type of pre-cast stone. Today, we have given that guarantee to the City of Winnipeg.

Remember what that guarantee is: that if for any reason at all -- we are not restricting it to inferior manufacturing or anything, we are including climatic conditions and everything else -- we say if for any reason that stone is defective, we will replace it, and if you are not satisfied with the replacement, we will take it out and give you your money back without any question at all.

That is what we call an "unconditional guarantee" -- not limited as to quality and not limited as to time. We say that pre-cast stone will remain there as long as the stone is required.

We have that situation in Brookside Cemetery. You have exactly the same situation, for instance, in Sault Ste. Marie, wherein the cemetery at Greenwood have exactly the same by-law which permits us to erect



this type of stone, provided we so satisfy them as to tests. Then they have the discretion to permit us to erect them. That is the whole thing, show them the tests, and they are satisfied.

It is not my intention to take up too much time, but I do want to emphasize one point which is causing you some trouble here. I am not going to enter into the controversy, but it does touch upon the question of approaching people in their bereavement and trying to take advantage of that bereavement to sell them lots.

We have been in business since 1908, and we have never sold nor approached a person at a time of bereavement in order to sell them a stone. The only way we do business is by advertising through newspapers.

One Press I should not mention here is the Prairie Farmer, the Free Press of Winnipeg. We advertise in the West through the Prairie Farmer, and we advertise in the East through the Family Herald and the Weekly Star.

We have done that for years, and that is all we do. We never approach a person in the hour of bereavement,

We have two letters. I am going to read one



extract from the Family Herald:

".....during that time your business relations with us have been all that could be desired and your ethics"

.....and I emphasize that word "ethics" --

".....your ethics and general treatment and attention to our subscribers' business has been excellent. Subscribers' complaints have been few and far between. They have always been given prompt attention by your Company, and to our knowledge, the customer has always been satisfied".

A similar letter comes from the Winnipeg Free Press which I will not read. So that in the matter of our approach, we do not touch upon the grief and sorrow of any person who has lost a loved one.

Now, I am going to come to your body. We do not ask for the exclusive right for our product. All that we ask this body to do is this; that you do not introduce into this proposed legislation, any prohibition preventing pre-cast stone or a memorial or monument being erected in a cemetery. We are prepared to stand in competition with granite or marble people or with pre-cast people. We want to have that right in this day of free enterprise.



One last word, and I am going to quote a scripture, which I think is quite right at a meeting such as this. Our Lord said one time, briefly, "the poor you always have with you". That is the situation in this province of Ontario. Granite memorials cost a great deal of money, a marble memorial costs a great deal of money, a pre-cast stone costs one-third of what either of those stones cost.

We sell a granite memorial for \$300. We sell an equally durable monument of pre-cast design for \$100. It happens there are more people who have less money than those who have more money, and I think it is only fair those who wish to perpetuate the memory of their loved ones should have an opportunity of doing it, but not at a cost which is prohibitive.

We supply a monument which is durable, a monument which is pleasing in appearance, and all we say to this Committee is, "May we have the right to do that in the future?".

BY THE CHAIRMAN:

Q May I ask you, Mr. Crawford, have you sold a number of those in Ontario up until now?

A We started in Ontario in 1946 or 1947 by direct advertising, and since that time we have acquired a large premises in Belleville. Whereas, in 1947, we sold less than 100 stones, up until



October of this year, we have sold 900 stones out of Belleville.

We sell from the Maritimes to Vancouver by direct advertising and the business has gone ahead at a tremendous rate, but the greatest development has been in the province of Ontario.

Q There are more poor here?

A No.

Q You would not wish to convey that?

A Being Scotch, as I am, and as perhaps you are, I am sure our race is appreciative of the savings.

Q I might say to you, Mr. Crawford, that if we discuss monuments, we will take into mind what you have said, in trying to learn something about them. I do not think they are in our instructions and I am not certain as to what we are going to do.

There is one question I might ask you, I am wondering about pre-cast stone and if there are many firms selling pre-cast stones which is used for monuments.

A I perhaps might ask Mr. Lon, who is President of the Company, to answer that question.

Q Is there a standard for pre-cast stone which gives it a basis of stability?

A May I answer it indirectly without attempting to avoid the question. I did not want to introduce



this here because I did not want to appear as if I was trying to sell our product, but it is known as "Lonite".

We have a patent for that. The composition is set up in the patent. That is our product, manufactured in a certain way. There may be other pre-cast stones. With that, we are not directly concerned because we are only interested in our product.

We are satisfied our product is a good product. We give a good guarantee which we would not give unless we were satisfied the product would stand up to the guarantee, because we are not going to give guarantees to replace stones unless we are completely sure they will never have to be replaced.

Q I want to compliment you on your splendid presentation and I am sure it will receive consideration.

A That, coming from Ontario, is greatly appreciated.

BY MR. THOMAS (Ontario):

Q May I ask a question? In the two ingredients, granite and dolomite, is there a mixing agency?

A Marble and dolomite, you are getting into the scientific side of it.

Q What is the combining agency?

MR. LON: We use cement, not chiefly Portland



grey, but we use another type which is white. Engineers are familiar with all the standards required of pre-cast stone, and those are the ones we manufacture. We take into consideration freezing and thawing and absorption, and that was tested by the University, not by a commercial concern.

THE CHAIRMAN: Do any members of the Committee wish to ask any further questions of Mr. Lon or Mr. Crawford?

Thank you very much.

A. E. PARKINSON,

representing Forest Hill Village, appearing before the Committee, but not being sworn, deposes and says:

BY THE CHAIRMAN:

Q Would you like to say a few words to the Committee?

A Mr. Chairman and gentlemen; I might explain my position here today is this: our solicitor is ill at the moment, and asked me to come down here to the meeting and see if I could obtain any information with respect to a special problem which we have in Forest Hill Village.

I will try to briefly outline the problem for you so you will be familiar with it. Upon



Roselawn Avenue, which is a heavily travelled street running immediately east of Bathurst Street, on both sides of the street there are cemeteries fronting on it. On the south side, we have our school grounds abutting it, so that is no particular problem, but on the north side of the street, the cemetery properties are abutted by the rear lots of residential properties.

No particular problem has arisen until this year when one of the various congregations which happen to own one of the cemeteries, attempted to fence in and do certain improvement work on what appeared to be vacant property. It was more or less of an extension of their present facilities.

This was brought to the attention of the residents who brought it to Council to assure no further work would be done, and our solicitor was requested to make the necessary representations to the parties concerned, to find out the address of the cemetery owners.

In dealing with the Department of Health, our solicitor, Mr. Grant, learned that the cemetery owners had secured a license to operate this property, I think, at least fifty years ago, and the fact<sup>is</sup> that the need had not arisen until lately.

They only fenced in and continued to use, a



portion of this property, but now as the need arises, they foresee the possibility of future use, and are attempting to make an extension.

This would necessarily mean that the residential users of the rear property would be greatly affected. My council are primarily interested in two things: firstly, that provision is made for the proper maintenance in future of some of these properties which in Forest Hill are owned and operated by numerous individual congregational units, very few of which we can get their names and addresses.

We ran into the same problem with respect to local improvements years ago when we wanted to pave the street. We did not even know who to charge the improvements to, with the result the municipality had to bear the entire cost. However, we are more concerned with this problem of how to pacify these residents who bought property in this area, seeing it was unfenced, and feeling it was just probably vacant property belonging to a commercial firm.

Now they see it being fenced in, and they are naturally concerned.

We would like to know if there is going to be any recommendation made by this body for sufficient legislation to prevent any extension of the use of



present facilities, and secondly, will there be anything done toward making these present owners of cemeteries responsible for the proper cleaning up and maintenance of their property?

We feel probably if the various agencies were known and sought out, probably legislation could be advanced to a point where these various groups would be responsible to some local body, and they would have to provide the necessary funds to ensure the necessary maintenance.

This problem, of course, is far more serious when you do run up against residential property, particularly in areas where people bought property without any thought or consideration being given to the fact that property use might be extended in future.

I would just like to know if I could take back any acquiescent information with regard to those two problems: one, whether extension of present facilities can be made, and two, proper maintenance of cemeteries in future, and whether these two problems are going to be taken into consideration and any appropriate recommendations made for amendments to the Act.

BY THE CHAIRMAN:

Q Mr. Parkinson, I do not know that I can be



of much help to you.

In the first place, this may sound rather stupid to you, but the Committee does not know what it is going to do. We are endeavouring to acquaint ourselves with the conditions and the facts, and then consider them and make a report to the Legislature.

I think I should say this to you, in all fairness, there is not any use in you wasting your time here and having me keep you, and I have no intention of doing that. But I do think this Committee, as I have listened to them -- and the Committee has never met to discuss the briefs and the information which has been placed before it, so that anything I tell you is only supposition, and does not represent the view of the Committee -- but older cemeteries look on the face to the Committee to be such a problem that they are doubtful if they are ever going to do anything that is really going to clean them up.

We have many for whom it is impossible to find anyone who is responsible in connection with them. Just in chatting with the Committee from the beginning, it seems to me the impression I gained was the Committee would endeavour to try to prevent a repetition of some of these things by recommending proposed requirements which may appear to be very hard



in the establishment of new cemeteries. That is how we realize some of the difficulties you are having.

If you were here this morning, you heard me ask Mr. Nash and Mr. Bunnell if we could do something to try to prevent the trouble you are having now, but the Committee is not made up of legal men and certainly I am not a legal man, and the position of those cemeteries so far as their land is concerned now, we would know nothing about, and it is not within this Committee's province to have anything to do with it.

But what we do recommend to the Legislature is our job, and what you have mentioned here this morning strengthens our hand and gives us more information as to what should be recommended.

We quite understand, and we are sympathetic, but it is not a Committee that has anything to do with doing things.

THE DEPONENT: Thank you very much.

BY THE CHAIRMAN:

Q I do not know if I have made myself clear or not.

A What I have listened to this morning, certainly has been very good.

Q If you can suggest something which we could do to prevent repetition of these things, we would



appreciate it.

BY MR. GORDON:

Q        You say this cemetery made an extension and placed a fence around it?

A        Correct.

Q        Did they get permission from the Department to make that extension?

A        Apparently they had secured a license quite some years ago, but had never used it nor shown any cause or reason to have used it until the present time.

Q        Did that license include that land?

A        It included that land, but the point arises now, can a person secure a license for intended use five years previous, and then come along in view of the different and semi-urban type of development surrounding it?        Is it fair they should be able to use that for its original use?

BY THE CHAIRMAN:

Q        You would suggest, I take it, Mr. Parkinson, that there would be something to be said if a person gets a permit for a cemetery, it must be gone ahead with within a certain length of time, or else the permit ceases to be of use?

A        Yes, I think that would be a fair statement to make, and would be in fairness to all prospective



home owners, who have to be more or less made aware of the fact this is really an extension of the cemetery property, by virtue of putting up a fence complying with local by-laws.

They are, in most cases, fenced in, and I think it is fair and equitable they be forced to continue that fence so that a buyer can come along and see that it is obviously part of the cemetery property and will be used as such if the need arises.

We take exception to the fact there was no fence, and the people are strongly opposing it. We feel something should be done for them.

As far as the maintenance of present cemeteries I was quite interested and concerned to learn that the Act provides that where it is not maintained, it becomes the responsibility of the local municipality, and we know we are responsible with respect to that.

I had occasion to have some experience with a cemetery recently, and it seems to me we were given the option of whether we wanted to pay in perpetuity for the maintenance of the cemetery plot, or care for it ourselves. The thought just occurred to me where the option is given, is that a desirable situation?

For example, I come from a family of a fair number, and we naturally will ensure that plot is



maintained. But take a case of a man and wife, where one dies before the other, and the other finally goes, and the rest of the family connections are in another city, how are you going to face the problem of maintenance on those individual scattered lots where they were given a choice?

Q I do not have a crystal ball, but I do not think I need a crystal ball to prophesy when the report of this Committee is received, there will not be any lots sold in the cemeteries along that line, if we are able to help it. There might be some in older cemeteries, but there is a great possibility the provision will require every new cemetery to have a complete perpetual care set-up.

A Is it not possible to have that dated in such a manner it would take effect from the date the residential areas were established surrounding that?

Q We try to skate around these old cemeteries.

A Thank you very much. I think I have all the information I need.

THE CHAIRMAN: That completes those who had arranged to be here this morning. We will proceed again this afternoon at two o'clock.

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---Whereupon the further proceedings of this Committee adjourned until this afternoon at two p.m.



A F T E R N O O N   S E S S I O N

Toronto, Ontario,  
November 5th, 1953,  
2:00 o'clock, p.m.

- - - - -

The further proceedings of this Committee  
reconvened pursuant to adjournment.

All parties present.

APPEARANCES:

Mr. R. B. Robinson,) Representing the Toronto  
Mr. Fred C. Clark ) General Burying Grounds.

Mr. O. E. Lennox, Q.C., Ontario Securities  
Commission.

Mr. H. B. Burkholder, Appelby Cemetery Board.

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THE CHAIRMAN: We will hear you first, Mr.  
Lennox.

MR. O. E. LENNOX, Q.C.,

Ontario Securities Commission, appearing before the  
Committee, but not being sworn, deposes and says:

BY THE CHAIRMAN:

Q        I might say to you, Mr. Lennox, we have  
had representations made by different persons as to  
the type of selling of cemetery lots.        Knowing the  
experience you have had in allowing selling and  
restricting selling, we thought your experience would



be helpful to us.

A I am afraid my knowledge of this particular subject is rather remote, but I admit some of the problems with regard to this matter are the same as in the securities business in general, so that I am certainly willing to express any opinion if I am given some direction.

Q I might say, in the presentation of various opinions, we have had references of course to the older types of cemeteries where there was no solicitation. Then what is commonly known as the "garden variety of cemeteries" was begun. I do not know of any stock selling, whether there was stock selling or not, but evidently judging from the opinions we have heard, there was quite a force of salesmen who went out and sold these cemetery lots on a pre-need basis and on a time basis.

We have had suggestions made to us that we prohibit the solicitation in homes of the selling of this type. I do not know whether this would come under the same class as securities, or whether it possibly would not, but you have done some restricting, and perhaps you can tell us how you get along with that, and what the public reaction is to it.

A A single cemetery lot in itself is a tangible



thing and it certainly does not come under the definition of a security. Also, the element of profit or loss is absent. People do not buy cemetery lots, as I understand it, with the idea of re-sale for profit.

I have not made a check on any company promoting a cemetery, having gone to the public to sell securities, to sell stock to build up the necessary funds to complete the cemetery, with the idea of profit.

Some years ago, before securities legislation was introduced in Ontario, in 1928, there was a cemetery down on the Kingston Road somewhere which I believe had formed a public company, and sold shares to the public of that company, and it caused quite a commotion.

I have second-hand knowledge of that because it was long before I entered the securities field. You will pardon me if in some way I parallel the problem as I see it to the securities problem, that I have to deal with.

It seems to me that the difficulty here is basically that these salesmen go out and sell people a plot and a perpetual care proposition long before the event, as it were, in the ordinary expectation of life, -- and using the word which is used in the securities



field, -- from that basis, the transaction is unconscionable. It is unfair.

If a young person buys insurance, he buys it at a reduced rate, and the younger he is, the cheaper it is. Here, I think, the young people are victimized by purchasing at a time of life which is not practical from the economical point of view, and therefore, the funds will not be used for the purpose for which they are intended.

I tackled the problem in the securities field. When I got my bearings, <sup>I found</sup> that you had to go to the very foundation of the matter, and it would have to be the broker or the salesman's fault. He could not be held guilty of selling fraudulently if the deal itself was passed by the Commission, and it was unsound financing.

I think the two situations are parellel to this degree: this is the sale of perpetual care, and the outlay of money at certain stages of life, subject to the honesty of the trustee who handles the fund is improvident and basically unsound, and the salesman who goes out and sells that is not being fraudulent. He is selling something which is recognized as proper to be sold. If he is selling something which should not be sold, and he is licensed, you will get a group of specialists who will be more high-pressure and lacking



conscience than if the thing is spread out and channelized.

Q The thing we must be very certain of -- and we have realized this, and I am sure the Committee will have this in mind -- is that if we are going to require 15% of the sale of the lot to be put into a perpetual care fund, as we do now, it is our duty to see that before we give a permit or allow a cemetery to be formed, to go out and sell lots, that we are sure the set-up is going to give the purchaser of that lot what he expects when he buys it in the way of being reasonable.

A And would the trustee of that fund be an established trust company.

Q Now part of the sale price which is set aside for perpetual care upkeep must be invested either as a trustee investment through a trust company, or with the Public Trustee. So we have already looked after that except that there is the question as to whether the percentage is large enough or not, whether the fund is going to be large enough. We will have to look into that.

A Yes.

THE CHAIRMAN: Would any members of the Committee like to ask Mr. Lennox any questions? I was wondering if you have had any experience -- I



suppose, as you say, it is not the same thing. When you sell a plot in a cemetery, you sell a piece of land or the right to use the piece of land for a certain use, and you also sell a service in the form of cutting the grass and looking after that lot, supposedly for all time. That is quite an order, of course, but there have been some suggestions made which I think you have partially answered, that these lots should not be allowed to be sold on a commission basis.

Your feeling is it does not make any difference whether they are sold on commission or by employees of the company?

A Yes. I think if you could devise a scheme where lots would not be sold, that the people bought the lots and there would be no intervention at all --

Q I meant if the salesman was a salaried man, the result would be similar, would it not?

A There would not be the same incentive to make a sale. I think probably the person making the sale under those circumstances would regard the needs of the people and the circumstances to a better degree if he were on a fixed salary.

Q We have heard some very different opinions. We have some who feel there is nothing wrong with



soliciting the purchase of any product, or any purchase, whether it is land or a cemetery plot.

There are a great many others who have lived, as we all have, during many years when soliciting for such things as undertaking services was frowned upon, and I do not know that we are much nearer knowing the feeling of the people generally than we were when we started, in that regard.

A        I have heard definite views on that, of course, because if there was not soliciting in securities my job would be very simple.

All our trouble develops through solicitation. The intelligent man knows something about investing and speculating. He buys a security, he is not being sold a security. There is a great difference.

I have been trying to convince our friends to the south that there is that difference, in order that there may be a reasonable trade between the two countries.

However, if you could get to the point where salaried men would look after the distribution of the sale of these lots, and their livelihood would not be dependent upon commission, they could let it be known through advertising or circulars or letters that these lots were available, that they did not go



out and pressure people into buying them, I think, from my point of view, that that would go a long way towards correcting it.

Q       The people of Ontario do not really appreciate pressure, do they?

A       From my point of view, the people of Ontario as far as dealing in securities goes, are vastly more intelligent than most other jurisdictions. We do not find people of Ontario are being victimized very much by high-pressure dealers.

          It is very good of you to come down.

          Would any member of the Committee like to ask Mr. Lennox any questions?

          We appreciate your coming, although I think perhaps your stock is not exactly the same as the stock we are interested in, so far as solicitation and selling is concerned.

          Could I ask you this, just as a personal opinion? Have you ever endeavoured to regulate salesmen, and have you had any success with that if you have tried. Of course, I know you limit them.

A       There are various means of regulating salesmen. If they are applying for registration, there is a very definite requirement as to their capabilities, and their record, and integrity. The organized brokerage industry also has safeguards.



The broker dealer that comprises straight promotional houses with members of the Stock Exchange, holds an examination as to the person's qualifications. Of course, we have a prohibition in our Act against calling by telephone to a private residence unless the person has requested information on a particular security, or is a customer of the brokerage house which uses the telephone or sends the agent out.

It is rather difficult to supervise these salesmen in the brokerage industry who use the telephone, because it is impossible to prove to the satisfaction of any court what was actually said over the telephone.

Q Do you control them by license?

A Absolutely, they are controlled by license.

Q You cancel a license, if need be?

A The Commission cancels licenses where they have a right of appeal to the full Commission, and a further right of appeal through the judgment in the Supreme Court.

Salesmen are a rather difficult group to supervise, I would think. You have to be able to turn to some definite thing, to deny them registration, for instance. You cannot just say you do not think they will work out. Surely you must have something



concrete.

BY MR. THOMAS (Ontario):

Q On a point of information, could Mr. Lennox tell us how many cancellations have taken place on the average during the last two years.

A For about three years, I think the average cancellation of principals was about thirteen a year. Salesmen sometimes exceeded that, and sometimes were substantially lower. In October, we cancelled four salesmen and there have been numerous cancellations in the last few years, I hope because the administration has tightened up considerably.

Q Have there been any successful appeals?

A Very few have appealed successfully from a direct cancellation. Quite a few have appealed from an order refusing them registration and the order refusing registration is probably a cancelling procedure. When we have not anything too definite against an applicant, we want to have a "full-dress parade" before the Full Commission, and I take the position on border-line cases, it is the responsibility of all the Commissioners to decide.

BY THE CHAIRMAN:

Q Would you like to give us an opinion regarding this: you understand the problem which we are



considering, of course. That is, we have had very many representations regarding salesmen by some of the cemeteries. Do you think licensing would be of assistance in observing good etiquette in salesmanship, or at least reasonable etiquette.

Do you think it would be an aid?

A I have grave doubts about licensing by itself without other provisions. My reason is, as I understand it, some of these salesmen do this work on a part-time basis. They might be selling insurance or have some other calling, and they would be using this as a part-time thing, and as far as persuasive salesmanship is concerned, they might be more or less amateurs.

I think if it is a question of licensing, and having the privilege to sell, the field might narrow until it would attract what I will describe as "specialists", and their methods might be more ruthless than the others.

Q I think you will get us more confused.

We are very grateful to you, Mr. Lennox. I think you have given us a thought. We will not forget that statement.

A I am glad if I have been of any help.

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MR. R. B. ROBINSON,

Toronto General Burying Grounds, appearing before the Committee, but not being sworn, deposes and says;

THE DEPONENT: Mr. Chairman and gentlemen; it seems that by now Mr. Clark and I have become almost fixtures at these meetings, having made our appearance at various centres.

It is a great pleasure to make further representations to you. You will recall, I think it was the first brief presented to this Committee, made by Mr. Arnup on behalf of the Trustees, and since that time Mr. Clark and I have followed your deliberations with great pleasure with the view of keeping the Trustees informed on various matters before you, and it looks as if we are going to be the last brief of your hearings as well.

Since our first brief, a few matters have developed in a way which leads us to believe it may be of some assistance if the Trustees would make known their views.

I would like to deal briefly with three of the matters which have come before you and three of which have been touched upon today in the forefront of the matters before the Committee. These are the question of taxation of cemeteries, the question



of commissioned salesmen, and lastly the question of a basis for the calculation of the proper amount to be set aside of the sale price for the perpetual care fund.

On the first of these, taxation, I think it is fair to say that the trustees have quite a simple approach to the matter of taxation. They believe in the first place, for a non-profit organization that the existing legislation regarding taxation is satisfactory and is fair.

BY THE CHAIRMAN:

Q Will you tell us what that is? There is a difference in different places?

A That is right, sir.

Q There is a misunderstanding evidently or a lack of understanding of the requirement of a cemetery to pay frontage taxes. In some places, they are being collected, while in others they are not, with the understanding they are not even subject to frontage taxes.

A Yes. While I do not want to go into Mr. Walker's territory, I can perhaps help you to this extent, that certain of the cemeteries -- and this certainly includes ours -- have had an arrangement by special Act of the Legislature, not only regarding



their corporate set-up, but regarding their taxation position as well, and that certainly applies to us.

When this matter came before the Committee, I think it was most forcibly presented at Ottawa by the City Solicitor and the Assessment Commissioner of that city. There was some reference to the Assessment Act which indicated there is an exemption only after a cemetery has begun to be developed and only as regards the developed part.

The trustees have, I think by special Act, incorporating the trustees, an exemption as soon as they get their permit to establish the cemetery for a certain area of land. The attitude of the trustees has been not to take as much exemption as they have been given by the Legislature.

That is, if they buy a large tract of land now and get a permit to commence operating their cemetery, until they actually start developing, they do not take advantage of their tax exemption, but they pay their taxes until the time they start to build the cemetery. . That is true, Mr. Clark?

MR. CLARK: Yes.

THE DEPONENT: Certain other cemeteries must fall back upon the general law, but that is the sort of exemption which appears in the Assessment



Act, and it is not as broad as the exemption, in all probability, which the trustees have. I think very roughly that is the taxation position.

As I have said, the trustees feel that is satisfactory and fair to a non-profit organization and particularly they wish to say this; that where that taxation set-up has been established by special Act, that no interference should be made with that.

The reason for that is, they have gone before the Legislature and the matter has been carefully dealt with there, and their own particular situation has been discussed.

They would ask this Committee should not make recommendations which will interfere with the Legislation which its Legislature has already enacted in connection with a particular cemetery.

I am making a distinction between non-profit and commercial cemeteries. The trustees do not feel it is necessary or proper for them to take a position regarding taxation of commercial organizations. But they will go this far to say, they do not see any reason why a commercial cemetery should not be subject to the same taxation as any commercial organization which is permitted to hold land, and that is as far as they wanted to go.



There has been a great deal of discussion about this matter, and I think it is useful to justify our position and explain what is behind the attitude of the trustees with regard to this. I am sure it has been developed before you at your earlier hearings, but it is essential to every community to have a decent and healthy disposal of the bodies of the dead.

I think it is safe to say that a community can survive in a healthy way without any particular one of the commercial organizations which form part of that community, but I think you can not say that about public services and you might say that about the cemeteries.

It would be a very unhealthy community which did not have a decent disposal of the dead, and as a matter of public welfare, I think the position of such a service as a cemetery meets, puts it entirely on a different plane than a profit organization. It is more analogous to fire and police protection and a supply of water, and things of that nature.

If there were not organizations which would come forward and look after the disposal of the bodies of the dead, it would certainly become a public charge, and that is not so with other commercial organizations.



Therefore, we do not feel it is unfair to ask a community to vote a tax exemption, and that is all we are asking it to do.

A non-profit cemetery organization feels it is fulfilling useful and essential public service, and therefore, if the community is simply asked to make an exemption from taxation, that is not an unreasonable request.

Again, of course, it is an entirely different thing dealing with a commercial organization which in a sense does not quite exploit that situation, but at least makes private gain from that situation.

A cemetery organization is primarily concerned -- and I am speaking of ours -- with the efficient and dignified and inexpensive operation of a cemetery and disposal of the dead, and each of these things is equally important.      Now dealing with expenditures:

We feel it is very desirable for the public need that burials should be continued at the least expensive level possible, and that is what we have tried to do, and I think we have been very satisfactory as have other non-profit organizations, as you have heard at your various other hearings.

I think they give a good and cheap service and they are very desirous of maintaining that as a



public service, as a benefit to the community in which they serve.

If they are going to have to pay taxes, there is no place that money can come from except by increasing the cost of the service which they give, and they do not wish to do that. That is why they take their stand now that the taxation position of a non-profit organization is fair and satisfactory to the community as it is.

I might just say in closing this, that we feel that attitude is consistent, not only regarding the ordinary realty taxes, but also regarding the local improvements taxes which also have been mentioned.

You will see from this, that our attitude is a little different from the attitude of an assessment commissioner which <sup>has</sup> an economic approach to it, whereas we have a public approach to it, which I think may explain the difference in views.

There is just one thing, perhaps, that might assist you in this very difficult question. We also do not feel that the ordinary taxation which could be levied against a cemetery, supposing it were done, would solve the problem for the assessment commissioner or his community. We feel what a community is losing by having a cemetery, is not a small amount of



realty taxes which it does not collect for a cemetery property, but rather the potential of a very large assessment on that property.

It has been mentioned cemeteries are in desirable locations. That is very often true, but there are very few buildings in these cemeteries and their assessments would be low at any rate, so that I do not think a community can say what it is afraid of losing is a small taxation arising from that. What they will actually lose is the prospect of a very large assessment from that property if a huge industry were established there.

I do not think you can do anything about that, and I think that is the crux of the problem. I think that is what the community is complaining about, in essence, and I do not think this Committee or any other committee concerned with cemeteries can do anything about that. There is certainly no possibility of taxing a cemetery more than the ordinary realty taxes, and that I am afraid is not all the loss the community has to worry about.

I feel their problem is having a cemetery in that location rather than the taxation of the cemetery after it has been established there.

Before I go on to the next matter, I wonder if it would be more satisfactory if you wanted to ask



any questions which might have arisen so far, if you did so now. Mr. Clark will, of course, be able to give me his assistance in answering them.

BY THE CHAIRMAN:

Q I am just wondering as I look at you and you look so kindly, I can hardly think you would not want to be a good neighbor.

A That is quite true.

Q I must say that I have been impressed with the need for local improvement taxes. That is a very small amount of money, and even if you do not agree with me, I am not asking you to agree with me, neither would I want you to say anything that your Board of Trustees might not want you to say, but you have all your cemeteries in Toronto, have you not?

A In the south part of the County of York.

Q That is one of the problems, when districts surrounding a big city -- and in the township in which you are situated, it is hardly necessary for me to say this to you, you have heard me say it so many times before --

A I have discussed one answer to that, and it is this: whereas now cemeteries must be established outside of the city of Toronto from the need for space, the communities in which new cemeteries serve,



will be able to use them as well. That is one thing.

The second thing is, Mr. Clark has told me from his very lengthy experience, that all these outside communities have been burying their dead in Toronto cemeteries for fifty years, and we are not just sure if it is proper at this point for them to say they do not like us, in a sense, turning the tables and coming to them when it is a necessity.

Q I do not think you need feel I am suggesting cemeteries should be heavily taxed, and certainly I would not go along with the thought you have expressed in regard to the building that might have been established there or the industry which might have been established there.

A We really feel that is the core of the problem.

Q As part of a community, all these things must take their place in the community, and there must be room for all of them. Although they might be considered a disadvantage from the viewpoint of the municipality, still it is just one of the things which is necessary, and I think you must not forget that.

A I think this is a public service and they should be willing to contribute the tax exemption to it. Mr. Clark points out also that when a cemetery



is established in an area, it provides work for the people in that area, and of course they pay their taxes.

Q That is true, but they get their services, too. It would not be a serious thing -- and I do have a little sympathy for the residents of the community who might be on the opposite side of the street from a cemetery and be held back because of that. Churches pay their frontage taxes, of course.

A I can perhaps elaborate on that. That has been discussed with the Trustees and they say they would have no objection at all, for instance, to paying a local improvement tax regarding the hard surfacing of roads. They feel they could not fairly complain about that at all, because they do have the advantage of the roads as well as the people who live across from them.

Q After all the information you have listened to, I think perhaps I might be interested in your opinion as to taxing of cemeteries generally. It is not as easy or as possible as most people think when they ask someone to do it.

A It is a very difficult position and we see no answer to your problem of taxing an established cemetery, where the money will come from, etc.



MR. ALLEN (Middlesex South): One thought went through my mind, perhaps it is ridiculous, but these cemeteries should be a business unto themselves, perhaps. They should do everything, supply the monuments and the undertaking facilities and everything, and then there would be revenue from that, because there are millions of dollars tied up in a cemetery, when you figure the price of the tombstones.

THE CHAIRMAN: You are getting in deep now.

MR. ALLEN (Middlesex South): It would be revenue-producing, and it should all be in one business.

MR. CLARK: We get into enough trouble with one section.

MR. WHITNEY: I think that in the formation of new cemeteries, if, on the sale of each grave there was a charge of \$1.00, for instance, it might be smaller or larger, but on the basis of the charge of \$1.00, if that was set aside in a manner similar to the perpetual care fund, and retained for purposes of taxation, as the section became filled, there would be in the neighborhood of 800 graves which would mean in the neighborhood of \$800. The taxation perhaps should be set or limited within the basis of the present taxation which is there, on the same



rate. The taxation should be set and the rate should be set. An outside municipality actually loses nothing which they have at the present time, and on that dollar charge, the interest would be more than adequate to pay the taxation, as set at the present rate, not at increased values in the future, but at the present rate.

THE DEPONENT: That is a very definite consideration, but I think it would be nothing but a slight sop to a municipality to have that small amount. If they want it, and would welcome it, it would be some solution.

MR. WHITNEY: If you were one of some cemetery organization which thought a certain township had the land most desirable for a cemetery, and would take three or four hundred acres of that township, it would mean a small amount so far as the revenue of taxation of that township would amount to. Perhaps it would be a good item to have and to guarantee a fixed amount to continue on in future, and they might welcome it.

MR. ALLEN (Middlesex South): Looking at it in a **broad**er light, this burying of the dead is not a charitable institution, is it?

THE CHAIRMAN: No.



MR. CLARK: It is a work of mercy. The church has always looked upon the burial of the dead as the work of mercy. We have not developed to the point yet where we think that a man should be taxed after he has passed away, I do not think. I would feel he has enough while he is alive.

THE CHAIRMAN: Did you ever hear of succession duties?

MR. ALLEN (Middlesex South): If he has an estate, it is taxed.

MR. CLARK: He does not own real estate in a cemetery, he only owns the right to use it.

THE DEPONENT: It cannot be called "charitable", but it is in the nature of public welfare.

MR. ALLEN (Middlesex South): It was in the past.

THE DEPONENT: We think it is still, in a non-profit organization.

MR. WHITNEY: There are people making money out of it.

THE CHAIRMAN: I think you realize, Mr. Robinson, that probably our ardour for taxation has not grown as we have proceeded.

THE DEPONENT: I think the problem still exists.



MR. ALLEN (Middlesex South): We have a few arguments.

THE CHAIRMAN: We accept it as a problem.

BY MR. ROOT:

Q There is one question in my mind which has been bothering me all the way through the hearing. How do you define what is "non-profit" cemeteries and what is "profit" cemeteries?

In Guelph, we had cemeteries where the officials gave their time free gratis. To me, that is non-profit, and I am not criticizing the people who are paid for necessary services. I think every service is entitled to a fair remuneration.

You say "profit cemeteries should be taxed, and non-profit cemeteries should not be taxed". What is a non-profit cemetery? Is that a cemetery which pays no salaries?

THE CHAIRMAN: We have not considered it as referring to salaries. I think it refers to a profit that might accrue to the owner of the cemetery.

MR. ROOT: What is a "profit"?

MR. THOMAS (Ontario): That is a point which was brought up in New York. There was a cemetery operating there where a lady had \$10,000. invested and was drawing \$100. a week income, and



was never at the place. What would that be?

MR. GORDON: A non-profit cemetery.

THE DEPONENT: It would not fall within my definition.

MR. THOMAS (Ontario): I was wondering whether there were any like that in Ontario.

MR. ALLEN (Middlesex South): If all the profits were eaten up in enormous salaries, would you call that "non-profit"?

MR. ROOT: You set aside so much money for perpetual care, and perhaps it is all eaten up in salaries and there is nothing left for the cemeteries.

THE DEPONENT: It is a difficult thing to define, there is no doubt about that, but if there are profits made out of it, it is conceivably a profit cemetery.

MR. ALLEN (Middlesex South): In Memorial Park Cemetery, <sup>money</sup> / is set aside for perpetual care, but what is to hinder them using all that for salaries and nothing for the cemetery?

THE CHAIRMAN: If you are as good Committee men as I think you are, there will be something to hinder that.

MR. ROOT: Can you still define what is strictly a non-profit cemetery?



THE CHAIRMAN: You know from your experience in your visit to New York, of cemeteries in New York State, where they require all cemeteries to be non-profit, and the Director of Cemeteries for New York State told us of instances where persons had made many millions of dollars from non-profit cemeteries. So I quite understand what you mean.

But I think in our consideration here and in our mention of cemeteries "profit" or "non-profit" is not taken in the literal sense of the word

We had a cemetery, as you will remember, before us, from Windsor, which had never paid any dividends and it might possibly be assumed they had never made a profit, but it is a profit enterprise, joint stock company, which was organized for the purpose of making profits.

I think that is about where we divide. I am not going to argue that we are right, though.

THE DEPONENT: In the first point I mentioned, I said we were not taking any position regarding commercial cemeteries, but that is not so on the next point, the question of selling on commission, which has already been touched upon by you, Mr. Chairman, and Mr. Lennox, today.

The Trustees of the Toronto General Burying



Grounds wish to go on record as giving their extreme opposition to the selling of lots on commission. There have been a great number of complaints -- I do not need to tell the Committee about them -- we have read about them in the Press and heard about them privately, and there have been many complaints made to this body at all the hearings. The Trustees feel it is actually at the root of all the complaints about the selling procedures of the commercial companies.

The reason, as Mr. Lennox has said earlier, is that when a man's wage depends upon his commission, and depends absolutely on the completion of a sale, that there is a very great incentive for him to complete the sale by any means at his command. We feel the matter is really too vital for him.

It is so vital that his whole livelihood depends upon it, and we feel that is at the very basis of the impropriety of selling methods which has come to the attention of this Committee on many occasions.

I do not think it is a matter of dispute, and the Trustees simply wish to state their position, and that is it.

They view with alarm any legislation which would allow commissioned selling of cemetery plots.



BY THE CHAIRMAN:

Q I think I might say to you, there is no doubt you have surmised that <sup>by</sup> the questions we have asked, it will be considered by the Committee.

A To get down to a practical level, we feel in this jurisdiction where it is allowed by legislation, there would have to be a great deal of supervision on it, which would be an added expense to the taxpayer.

A great number of inspectors would have to be employed to supervise the selling, to make sure improper methods were not employed.

We feel that is a burden definitely put on the taxpayer because it would be necessary to prohibit that type of sale.

The Trustees feel what is the best answer to the problem is that first of all, only employees of cemeteries should be allowed to sell lots, and secondly, that they should be paid by salary, and should not be permitted to operate on a commission.

The third matter which I wish to deal with is the basis of calculating suitable amounts for the perpetual care fund.

We hope you have this all solved for us.

A We think we have. This has certainly been somewhat of a paradox in the hearings of this Committee.



In the first place, some people say 10% is quite adequate, and we have found other cemeteries have to put away up to 75%. It does seem paradoxical but very much less so when you relate it to the amount of the selling price.

50% of \$60.00 gives the same amount for a perpetual care fund as 10% of \$300.00, and therefore, the distinction between 10% and 75% is not as actually as great as it might appear.

The Trustees feel they are fortunate in having the advantage of Mr. Clark's great knowledge and experience in this matter. We feel he is an expert on this side of the problem and he has taken the advantage of the opportunity of discussing it with a great many other experts.

The time for that was at your hearings in London. He burned the midnight oil one night trying to get some figures which would be helpful to the Committee to form a solution of this problem.

Before I come to this, there is one thing the trustees feel has been greatly over-rated, and that is the difference between the upkeep of the monument type and the garden type cemeteries.

We have heard briefs which have stated that the garden type cemetery is very cheap to operate, and



obviously they add the monument type is much more expensive. I think the figure two or three times was given to this Committee. One brief said in the garden type cemetery it costs \$341.38 for the annual upkeep. We have monument cemeteries which do not cost any more, and they can be operated at that figure which has been given as an average for the lawn type.

It seems to me the only basis for distinction is the question of cutting around the tombstones. With modern equipment which is used today, very much more is made of that advantage than the facts warrant.

Mr. Clark says it is, not more expensive to maintain in good shape, a monument type cemetery, and we wish to go on record as stating that to the Committee.

In the first place, it is possible to establish a basic figure for both types of cemeteries. Secondly, we see no reason why there should be an additional and complicating levy based on the price of the tombstone.

Certain briefs have said since tombstone type cemeteries cost more to operate, an additional levy can be charged based on the price of the tombstone. We say that since the premise is wrong, the



result is wrong, and that is not necessary.

We feel it would be an additional complexity and an additional burden on any cemetery to have a double levy instead of a single, simple one.

It consists of figures which you have had from other sources.

We feel as a minimum their charge, 35¢ per square foot for the lot, or 35% of the selling price, whichever of the two is greater, is fair.

We feel that should be the minimum, the greater of either those two figures.

The reason we say that is that would give as the minimum, about \$10,000. a year to be invested in perpetual care at 4% which would yield \$400. a year per acre. The average figure which was given in a brief for the largest of the lawn type cemeteries was \$341. They collected more because they collected additional for the stone tablet.

We feel \$400. is an adequate and suitable minimum and it could quite effectively be based upon those figures. If there are any questions on that, we would be very glad to deal with it. Those are all the submissions we wish to make.

BY MR. THOMAS (Ontario):

Q Mr. Robinson, in the original brief



presented by the Toronto General Burying Grounds, they said 50% should be deducted for perpetual care.

A        We have changed our position.

          And the resolution at London asked for 35%.  
Would you care to comment on that?

          I know a great deal of thought has been given between our two briefs and that is why we felt it was necessary to make further representations today, because we have changed our position as a result of Mr. Clark's further study.

          MR. CLARK: I might say up until 1947, we put up 25% into the perpetual care fund. At that time, we felt it was sufficient, at least until almost that time, but owing to increased wages and increased costs, we found we had to supplement the perpetual care fund to bring it up to the amount we should have to meet present-day commitments, and that was the reason we went up to 50%.

          We feel that for the ordinary cemetery, 35% as a minimum, is sufficient, and if a cemetery is being operated in the public interest, they would be allowed to raise their perpetual care fund to whatever the trustees thought proper above that, the same as the present Act which calls for 15% or 10¢ a foot, but there are very few cemeteries which are able to keep down that low.



They have gone above it, because their expenses have increased.

Our figure of 35% or 35¢, we figure, is the lowest amount that any cemetery should set aside at the present time, but they should be allowed to go higher where they feel it is necessary, because none of us know what tomorrow's prices will be, and we should be able to offset tomorrow's prices.

THE CHAIRMAN: What was your opinion, Mr. Clark; I suspect that you feel you should have a surplus in your perpetual care fund. Do you take in the entire amount of your perpetual care interest every year, and put it in your operating costs?

MR. CLARK: Yes, we not only do that, but we take  $12\frac{1}{2}\%$  of all lot sales into maintenance. We feel that when the cemetery is full, it will not cost as much per acre to operate as it does now, when we are operating with funerals all the time. Our breakdown is 50% perpetual care, 35% into the replacement fund to replace the property which we sell, and 15% for maintenance. We find we need 15% on lot sales, plus interest from perpetual care fund for the operation of the properties.

THE CHAIRMAN: Would you know, roughly, how much per acre your perpetual care fund would amount to?



MR. CLARK: I have not that figure, sir.

THE CHAIRMAN: I was just trying to get that. It would be an easily comparable figure to know what you would need to have \$10,000. per acre to get \$400. an acre.

MR. CLARK: Yes, you would. I could get that for you. I am having some figures prepared which I thought might be of some use to you.

BY MR. ALLEN (Middlesex South):

Q Is the amount for the garden type cemeteries and yours comparable?

A We have areas which can be operated for the figure which was given for the garden type cemetery, which was \$341.38. We have others which cost more, depending upon contours of the land and what-not. Did you want the figure of the amount per acre of perpetual care interest?

THE CHAIRMAN: Yes.

While speaking about perpetual care, I would like your opinion on this; you people represent the large cemeteries. The Committee has in mind the fact that cemeteries are one of the most permanent things in a community. They realize that times change as I pointed out this morning. We listened to one of the operators



yesterday, who took us back to the time when labor was 15¢ an hour and the amount of money which was required then for the perpetual upkeep of the land and the amount which is required now, is vastly different.

It seems to me that one of the duties of this Committee which would have to do with new cemeteries particularly, because I think we have listened to sufficient information which causes us to think that the older type cemeteries cannot be very radically changed. Perhaps we might bring in regulations governing the establishment of new cemeteries which might be helpful, and no doubt might be criticized by some of the smaller places because some of the requirements might be exacting.

One requirement might be that all the funds should be invested in trustee funds through a trust company or through a Public Trustee. We might, in some way, make sure that was done, by having an audit every few years just to make sure the requirements were being carried out.

We all know the job the Toronto General Burying Grounds have done so far as investments and maintaining their money is concerned. They have been a model for the province but how would the larger organizations such as yours



look at regulations such as that? Would they be willing to accept them in the hope it might do cemeteries, on the whole, a service?

A Do you think some regulation requiring the perpetual care fund should be placed in trustee investments? Was what you had in mind?

Q Yes.

A I do not see how the trustees could have any objection to that at all. I think it would all be in the public interest.

Q And submit to an audit?

A Certainly to submit to an audit. I might say if the Committee would be interested in our set-up, this is something beyond that. By our special Act, the trustee funds are not administered by the Public Trustee but by the trustees of the Toronto General Burying Grounds themselves.

They have been permitted to look after the investment of their funds and they have done very well indeed. They are not limited to trustee investments, but are limited to the investment that insurance companies are permitted. It is slightly broader and permits them to invest in certain stock and bonds, and we would hope that should be maintained in our own case.



Whether or not the Committee should broaden the trustee investments in the average cemetery, we have no position in that matter, but it should require a great deal of thought. Some of the cemeteries are small and perhaps in the case of the small cemetery, with a small perpetual care fund, it would be just as wise to limit them to trustee investments, to be perfectly safe.

BY MR. THOMAS (Ontario):

Q When you are getting these figures, would it be possible to get the further expenditures for maintenance last year, and the percentage paid in salaries and indemnities?

A I would like Mr. Clark to answer that.

MR. CLARK: The Committee already have that data. At our first presentation, a financial statement for that year was exhibited.

MR. THOMAS (Ontario): Thank you. I will look it up when I go home.

THE DEPONENT: We greatly appreciate your kindness in letting us make these representations.

DOCTOR BERRY: Could you express an opinion as to whether the 35% or 35¢ a square foot for perpetual care should be altered somewhat for a cemetery which is just starting out, or would you



make that uniform for all cemeteries?

In the old cemeteries, much of the perpetual care fund has, of course, been put down at a much lower rate. Would you be inclined to alter that at all for a cemetery which is just starting out, where they have no commitments, and nothing has taken place in the past?

MR. CLARK: This figure was designed with that purpose in mind, Doctor Berry. It was designed so that the present conditions would not be perpetuated in the future.

DOCTOR BERRY: Would you ask the same amount from a new cemetery which is just starting now, which has no obligations in the past at all?

MR. CLARK: As a minimum, yes.

DOCTOR BERRY: You set the 35% as a minimum for a new cemetery?

MR. CLARK: Yes, both new and old.

As I understand the thought, as we have gone through the different meetings, from now on probably some provision would be made for future care of cemeteries. That amount was worked out as the minimum which would be required to take care of any cemetery whether old or new.

DOCTOR BERRY: Then, for an old one you would



have to go beyond that.

MR. CLARK: They would go beyond that, yes.

DOCTOR BERRY: In St. Catherines and many of the other cemeteries, they have indicated they are doing as you are doing, in going beyond that.

MR. CLARK: Yes. You see, if 35% is put by into the perpetual care fund, and land is sold at \$1.00 per foot, the cemetery has \$20,000. for its land and development, maintenance and that sort of thing. There is plenty of money for them to develop a cemetery properly at \$1.00 a foot and put \$35.00 into the perpetual care fund.

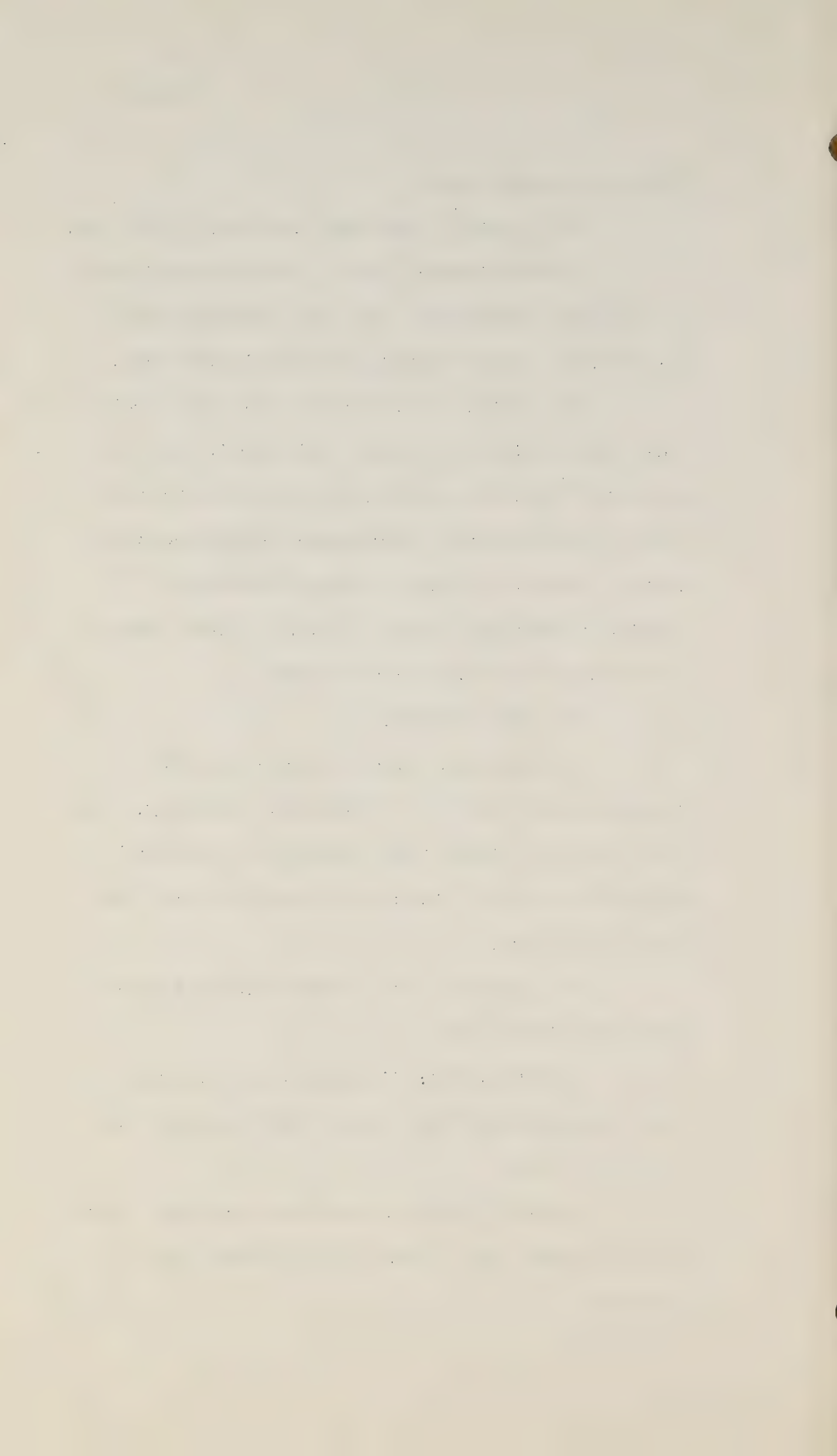
BY THE CHAIRMAN:

Q I think your figures come very close to the figures we got at St. Catherines yesterday. They said 35%, but I think they charge more for their graves than you do, which would amount to the same thing in the end.

MR. CLARK: Yes, it would amount to the same thing in the end.

THE CHAIRMAN: We might even find there is some information we have missed, and we might want to get it later.

However, there is one other question. Have you any garden type or lawn type sections in your cemetery?



MR. CLARK: I might say, Mr. Chairman, that we have at least 30% of our cemeteries occupied with non-monumental lots and graves.

In the single-grave, no monuments are permitted, and in a large city -- and I suppose it works out in smaller cities on the same ratio -- a good part of the cemetery business is a single-grave business. We have thousands of graves where there are no monuments, and there never will be any monuments.

There are acres of ground in some sections without any monuments at all, laid aside as single grave sections. All that is permitted on them is a flat marker, and the more modern way is to sell a better class of single grave mixed in with the monument lots, so that there are not as many monuments on a piece of ground.

However, when we say a "no monument section", we mean a little different to what the new type of cemetery does. The largest one we have is about five acres with only one monument on it, and that is the Veterans' section of Prospect Cemetery. In the other cemeteries, York and Pinehill Cemeteries, we have Veterans' sections where there is only one single monument, but I cannot say "yes" or "no" to



that question, because it is more of a mixture.

THE CHAIRMAN: Would any members of the Committee like to ask Mr. Robinson or Mr. Clark any further questions?

Thank you very much.

MR. H. B. BURKHOLDER,

representing Appelby Cemetery Board, appearing before the Committee, but not being sworn, deposes and says:

BY THE CHAIRMAN:

Q Would you like to say a few words, Mr. Burkholder?

A Mr. Chairman and gentlemen, I represent a small cemetery in Appelby, Halton County, which Mr. Hall knows well.

We are having considerable trouble with our cemetery. It is just filled now and they wanted to get more land for it. The person we want to deal with, who owns the land all around our cemetery, is a business man in Toronto, who holds the land for speculation and we cannot get any word from him at all.

I am Chairman of the Cemetery Board and we had a meeting and happened to see a notice in the



newspaper, and they asked me to make an appointment, thinking perhaps we might learn something which would help us.

THE CHAIRMAN: I hope you can, Mr. Burkholder, because the man who answers all the questions, Doctor Berry, is here this afternoon.

DOCTOR BERRY: There is authority in the Cemeteries Act for expropriating that, and I am sure that is his problem. It seems to me he is faced with the difficult situation of the land becoming exceedingly valuable around his cemetery, because of industrial growth and he is in competition in buying that land. It is going to cost him a great deal of money to do that, with the result he has a problem of raising the money to buy it.

THE DEPONENT: That is the problem.

DOCTOR BERRY: There is authority. Of course, you can expropriate, but I do not think you would probably get it for a great deal less in that way. I wonder, under the circumstances, whether it is desirable to attempt to enlarge a cemetery like that, or whether it would not be better to develop another one entirely independent, someplace else. Have you considered that?

THE DEPONENT: I have personally, but the



Board have not.

Our church has just about five acres of land lying between the present cemetery and the church on Appelby Road. The Church is on the Queen Elizabeth Highway and the cemetery is on Appelby Road, and they want to keep it as close to the church as possible.

BY THE CHAIRMAN:

Q What is the land worth there?

A The only amount I know of which was sold was right across the corner. The corner of a farm was sold down as far as the cemetery and up to the Queen Elizabeth Highway, and they got \$750. an acre for that.

Q If you were able to sell your lots within a reasonable time, you could afford to pay that for a cemetery.

A The trouble is the lots have always been sold very cheaply, and the cemetery has been kept up by subscription from the people.

They established, some years ago, a perpetual care fund, and each one donated so much money into this fund, and the money was put into Dominion Government bonds, which at the time were paying  $5\frac{1}{2}\%$ . The interest on those bonds would take care



of the upkeep of the cemetery, but now the interest has dropped to  $2\frac{1}{2}\%$  and the cost has gone up to \$200. a year, so we have to go and raise subscriptions from the community to get the thing going.

DOCTOR BERRY: And you have no fund for purchasing this land at present?

THE DEPONENT: No, we would have to go out and solicit subscriptions from people.

BY THE CHAIRMAN:

Q In that vicinity, an acre might not last long.

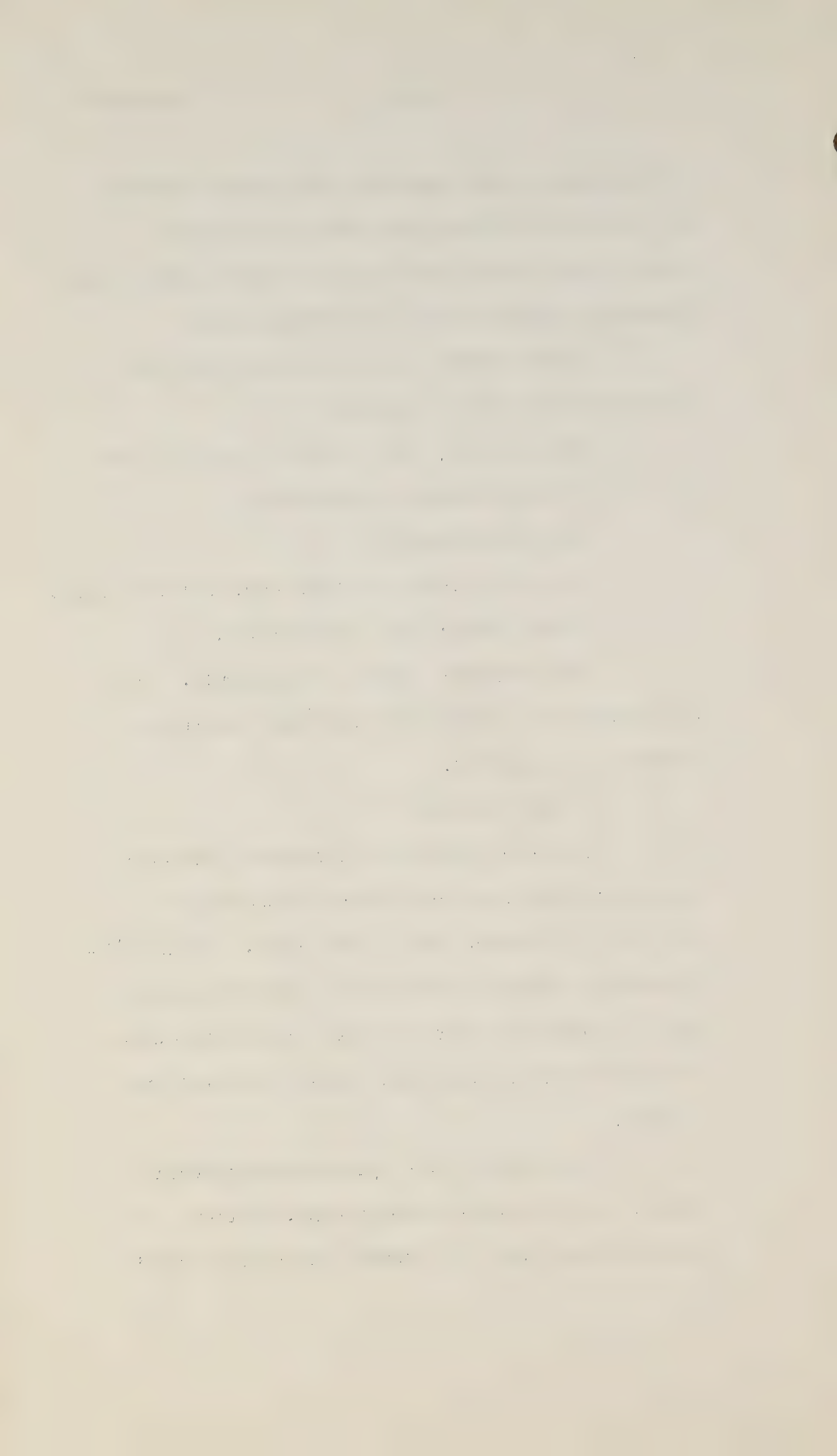
DOCTOR BERRY: No, it would not.

THE DEPONENT: That is the trouble. We are between the highway and the lake, and it is growing up so rapidly.

BY THE CHAIRMAN:

Q You have a good arm to lean on, who will be able to give you every bit as good advice as you can get anywhere else in this city. It is quite a problem, although usually in a community where land is expensive, there are some persons who have finances who will contribute toward a project such as that.

A The thing is, the question which really bothers us, is how to go about expropriation. A friend of ours who is a lawyer, and takes a great



interest in our cemetery has written several times to this man and gets absolutely no reply.

Q I am not giving advice, but why do you not go over some day and take Mr. Hall with you, and find this man and meet him face to face. I think you would probably have better luck than you would with letters.

A In the spring, we appointed a committee of three to go down and see him and they got absolutely nowhere.

DOCTOR BERRY: The question of the procedure is under Section 19, that you must secure the consent of the Council of the municipality, in order to expropriate.

If the Council is agreeable to that, I wonder if it would be well to advise the owner, if he is not prepared to sell that land, that you have that alternative, which you can use, but you prefer to deal with him without expropriation proceedings.

THE DEPONENT: You suggest I should talk to Council?

DOCTOR BERRY: Yes, you would first have to know whether the Council is prepared to give you authority to expropriate the land. You would have to go to them first, and if you follow the procedure



set out in Section 19 of the Act, that would be a starting point, and I think that it would probably bring it to a head, one way or the other.

THE CHAIRMAN: You will find Doctor Berry very happy to help you all he can.

THE DEPONENT: Thank you, very much.

THE CHAIRMAN: Thank you.

This winds up our proceedings for today.

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--Whereupon the Committee adjourned at 3:30 p.m.

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